

**Meeting Date:** Tuesday 9 October 2012  
**Location:** Council Chambers, Level 6, Civic Centre, 1 Devlin Street, Ryde  
**Time:** 7.44pm

**Councillors Present:** The Mayor, Councillor Petch and Councillors Chung, Etmekdjian, Laxale, Li, Maggio, Pendleton, Perram, Pickering, Salvestro-Martin, Simon and Yedelian OAM.

Note: Councillor Pickering left the meeting at 11.16pm and did not return. He was not present for consideration of Item 1 or Adoption of Items considered in Closed Session.

**Apologies:** Nil.

**Staff Present:** General Manager, Group Manager – Community Life, Group Manager - Corporate Services, Group Manager – Environment & Planning, Group Manager - Public Works, General Counsel, Manager – Communications and Media, Manager – Strategy and Organisational Development, Team Leader – Major Development, Service Unit Manager – Governance, Media and Community Relations Officer and Acting Section Manager – Governance.

### **PRAYER**

The General Manager, Mr John Neish offered prayer prior to the commencement of the meeting.

### **DISCLOSURES OF INTEREST**

The Mayor, Councillor Petch disclosed a less than significant non-pecuniary interest in Mayoral Minute 11/12 – Seeking Direction of Minister re Discontinuance of Supreme Court Proceedings No. 2012/249917 for the reason that now that he is a Defendant in the proceedings.

Councillor Li disclosed a less than significant non-pecuniary interest in Mayoral Minute 11/12 – Seeking Direction of Minister re Discontinuance of Supreme Court Proceedings No. 2012/249917 for the reason that he is a party to the proceedings referred to in the Mayoral Minute.

Councillor Perram disclosed a less than significant non-pecuniary interest in Mayoral Minute 11/12 – Seeking Direction of Minister re Discontinuance of Supreme Court Proceedings No. 2012/249917 for the reason that he is a party to the proceedings No. 2012/249917.

Councillor Salvestro-Martin disclosed a less than significant non-pecuniary interest in Mayoral Minute 11/12 – Seeking Direction of Minister re Discontinuance of Supreme Court Proceedings No. 2012/249917 for the reason that he is a party referred to in the proceedings.

## **TABLING OF PETITIONS**

No Petitions were tabled.

## **PUBLIC PARTICIPATION ON ITEMS LISTED ON THE AGENDA**

The following persons addressed the Council:-

<b>Name</b>	<b>Topic</b>
Graeme Cordiner (representing Gladesville Working Group)	<b>Notice of Motion 3 – RYDE DRAFT LEP 2012</b>
Noel Plumb	<b>Notice of Motion 3 – RYDE DRAFT LEP 2012</b>

## **MAYORAL MINUTES**

### **MM10/12 DEATH OF JENNIFER ARMSTRONG**

**RESOLUTION:** (Moved by The Mayor, Councillor Petch and Councillor Perram)

That Council offer its condolences to the family of Jennifer Armstrong and her partner Gerard.

#### **Record of Voting:**

For the Motion: Unanimous

### **MM11/12 SEEKING DIRECTION OF MINISTER RE DISCONTINUANCE OF SUPREME COURT PROCEEDINGS NO 2012/249917**

**RESOLUTION:** (Moved by The Mayor, Councillor Petch and Councillor Perram)

That this matter be referred to Closed Session for consideration as it relates to legal matters.

#### **Record of Voting:**

For the Motion: Unanimous

## **ACT OF DISORDER**

**MOTION:** (Moved by The Mayor, Councillor Petch and Councillor Perram)

That Councillor Pickering be removed from this meeting until he apologises unreservedly to the Mayor for his disorderly conduct at Council's meeting on 25 September 2012 and at tonight's meeting.

**Record of Voting:**

For the Motion: The Mayor, Councillor Petch and Councillors Li, Perram, Salvestro-Martin and Simon

Against the Motion: Councillors Chung, Etmekdjian, Laxale, Maggio, Pendleton, Pickering and Salvestro-Martin

**MM12/12 REVIEW OF DELEGATION – GENERAL MANAGER AND SENIOR STAFF**

**RESOLUTION:** (Moved by The Mayor, Councillor Petch and Councillor Perram)

That Council direct the General Manager to table at the next Council meeting, all delegations imposed by Council and the Local Government Act 1993 (NSW) prior to 8<sup>th</sup> September 2012 on the General Manager and senior staff.

**Record of Voting:**

For the Motion: Unanimous

**MM13/12 RYDE CIVIC PRECINCT REDEVELOPMENT – LEND LEASE**

**RESOLUTION:** (Moved by The Mayor, Councillor Petch and Councillor Perram)

That:

- (a) The letter from Lend Lease be noted.
- (b) A meeting be convened with the Mayor and Deputy Mayor and representatives of Lend Lease and any Councillor who wishes to attend.
- (c) That all Councillors be advised of the date of the meeting when it is scheduled.

**Record of Voting:**

For the Motion: Unanimous

**COUNCIL REPORTS**

**1 CONFIRMATION OF MINUTES - Extraordinary Council Meeting held on 25 September 2012**

**RESOLUTION:** (Moved by Councillors Perram and Maggio)

That the Minutes of the Extraordinary Council Meeting held on 25 September 2012 be deferred to Closed Session at the end of the meeting to clarify the confidential attachment to the Minutes.

**Record of Voting:**

For the Motion: Unanimous

**PRECIS OF CORRESPONDENCE FOR CONSIDERATION**

**1 MACQUARIE PARK TASKFORCE**

**RESOLUTION:** (Moved by Councillors Yedelian OAM and Laxale)

- (a) That the correspondence be received and noted.
- (b) That Council respond to the Department directly and seek further clarification on Council's previous resolution.

**Record of Voting:**

For the Motion: Unanimous

**2 ACCELERATING COMPLETION OF THE ASSESSMENT OF TRANSITIONAL PART 3A PROJECTS NOTIFICATION AND FACT SHEET**

**RESOLUTION:** (Moved by Councillors Perram and Pickering)

That the correspondence be received and noted.

**Record of Voting:**

For the Motion: Unanimous

**NOTICES OF MOTION**

**1 ARGYLE THEATRE - Councillor Terry Perram**

**MOTION:** (Moved by Councillors Perram and Salvestro-Martin)

That no further action be taken in pursuit of the proposal to establish residential units on the site of the Argyle Theatre.

**AMENDMENT:** (Moved by Councillors Pickering and Maggio)

That this matter be deferred until a Councillor workshop is conducted on this matter.

On being put to the Meeting, the voting on the Amendment was five (5) votes For and seven (7) votes Against. The Amendment was LOST. The Motion was then put and CARRIED.

**Record of Voting:**

For the Amendment: Councillors Chung, Etmekdjian, Maggio, Pickering and Yedelian OAM

Against the Amendment: The Mayor, Councillor Petch and Councillors Laxale, Li, Pendleton, Perram, Salvestro-Martin and Simon

**RESOLUTION:** (Moved by Councillors Perram and Salvestro-Martin)

That no further action be taken in pursuit of the proposal to establish residential units on the site of the Argyle Theatre.

**Record of Voting:**

For the Motion: The Mayor, Councillor Petch and Councillors Laxale, Li, Maggio, Pendleton, Perram, Salvestro-Martin, Simon and Yedelian OAM

Against the Motion: Councillors Chung, Etmekdjian and Pickering

**2 PROPERTY TRUST - Councillor Terry Perram**

**RESOLUTION:** (Moved by Councillors Perram and Salvestro-Martin)

That no further action be taken in pursuit of the proposal to establish a property trust.

**Record of Voting:**

For the Motion: The Mayor, Councillor Petch and Councillors Chung, Laxale, Li, Pendleton, Perram, Salvestro-Martin and Simon

Against the Motion: Councillors Etmekdjian, Maggio, Pickering and Yedelian OAM

**3 RYDE DRAFT LEP 2012 - Councillor Terry Perram**

Note: Graeme Cordiner (representing Gladesville Working Group) and Noel Plumb addressed the meeting in relation to this Item.

**RESOLUTION:** (Moved by Councillors Perram and Salvestro-Martin)

That a suitable variations be developed for a Councillor workshop prior to Councils consideration of Ryde draft LEP 2012 that would alter the zoning restrictions on the Civic precinct and Argyle Theatre sites consistent with these areas of land remaining in Council ownership and on both sites:

- reducing the allowable height of development;

- permitting use of the land for open space, civic purposes or cultural purposes; and
- prohibiting residential uses.

**Record of Voting:**

For the Motion: Unanimous

**MATTER OF URGENCY – ADVISORY COMMITTEES**

The Mayor, Councillor Petch raised the matter of Council's Advisory Committee structure and deemed the matter as urgent.

**RESOLUTION:** (Moved by The Mayor, Councillor Petch and Maggio)

That Council consider a Matter of Urgency regarding the Advisory Committees, the time being 9.18pm.

**Record of Voting:**

For the Motion: Unanimous

**MATTER OF URGENCY – ADVISORY COMMITTEES**

**RESOLUTION:** (Moved by Councillors Etmekdjian and Maggio)

That a workshop with Councillors be held regarding the Advisory Committees on Tuesday 16 October 2012, followed by an Extraordinary Meeting of Council to determine the matter.

**Record of Voting:**

For the Motion: Unanimous

**NOTICES OF RESCISSION**

**1 NOTICE OF RESCISSION: 3-5 TRELAWNEY STREET, EASTWOOD.  
LDA2011/0611 - Councillor Roy Maggio, Councillor Victor Tagg, Councillor Jeff Salvestro-Martin**

**MOTION:** (Moved by Councillors Maggio and Salvestro-Martin)

That Council rescind the previous resolution in relation to Item 3 (Part 2) – 3-5 TRELAWNEY STREET, EASTWOOD, LDA2011/0611, passed at the Council Meeting held on 24 July 2012, namely:-

*That this matter be deferred to allow the Group Manager – Environment and Planning to negotiate this development application with particular regard to addressing the following:*

- (a) *an increase in the voluntary planning agreement;*
- (b) *the non-compliances as outlined in the officer's report; and*
- (c) *meeting the needs of both the developer and community with regards to amenity.*

**Record of Voting:**

For the Motion: Councillors Maggio, Salvestro-Martin and Yedelian OAM

Against the Motion: The Mayor, Councillor Petch and Councillors Chung, Etmekdjian, Laxale, Li, Pendleton, Perram, Pickering and Simon

The Rescission Motion was LOST.

**2 NOTICE OF RESCISSION: 7-9 RUTLEDGE STREET, EASTWOOD.  
LDA2011/0612 - Councillor Roy Maggio, Councillor Victor Tagg, Councillor  
Jeff Salvestro-Martin**

**MOTION:** (Moved by Councillors Maggio and Salvestro-Martin)

That Council rescind the previous resolution in relation to Item 3 (Part 3) – 7-9 RUTLEDGE STREET, EASTWOOD, LDA2011/0612, passed at the Council Meeting held on 24 July 2012, namely:-

*That this matter be deferred to allow the Group Manager – Environment and Planning to negotiate this development application with particular regard to addressing the following:*

- (a) *an increase in the voluntary planning agreement;*
- (b) *the non-compliances as outlined in the officer's report; and*
- (c) *meeting the needs of both the developer and community with regards to amenity.*

**Record of Voting:**

For the Motion: Councillors Maggio, Salvestro-Martin and Yedelian OAM

Against the Motion: The Mayor, Councillor Petch and Councillors Chung, Etmekdjian, Laxale, Li, Pendleton, Perram, Pickering and Simon

The Rescission Motion was LOST.

**3 NOTICE OF RESCISSION: 64 PELLISIER ROAD, PUTNEY. LDA2011/493 - Councillor Ivan Petch, Councillor Victor Tagg, Councillor Jeff Salvestro-Martin**

**RESOLUTION:** (Moved by The Mayor, Councillor Petch and Councillor Salvestro-Martin)

That Council rescind the previous resolution in relation to Item 2 (Part 5) – 64 PELLISIER ROAD, PUTNEY, LDA2011/493, passed at the Council Meeting held on 14 August 2012, namely:-

- (a) *That Council resolve to seek amended plans in relation to Local Development Application No. LDA2011/493 for alterations and additions to the existing dwelling and construction of a cabana at No. 64 Pellisier Road, Putney. The amended plans and supporting information shall incorporate the following details:*
- i. **Reduction of balcony/terrace.** The Ground Floor balcony/terrace immediately adjoining the family and dining room shall be reduced by a minimum of 4 metres from the rear and the surplus area be replaced with roofing material to the lower ground floor level below and is not to be accessible.*
  - ii. **Setback of proposed additions from northern boundary.** The proposed additions must be stepped back to be in line with the existing kitchen and dining room side wall (this will equate to a setback of about 1 metre from the northern (side) boundary).*
  - iii. **Tree Management Plan – adjoining Fig Tree:**  
The submission of a report and plans from a suitably qualified practicing Arborist which provides details of management of impacts on the adjoining Fig Tree. The report shall include details of the following matters:*
    - Details (including a site plan and photographs) regarding investigation to determine the location of the structural roots of the adjoining Fig Tree.*
    - Structural Plans of columns of the proposed additions in relation to the structural roots of the adjoining Fig Tree (based on the investigations above) – which minimises construction impacts on the Fig Tree.*
    - Structural Plans – cabana: The cabana is to be constructed with pier and beam or other construction methods which minimises impacts within the Tree Protection Zone of the Fig Tree. Subfloor infill walling is not acceptable.*
    - Proposed physical management of the Fig Tree before, during and post construction, to ensure its longevity.*
    - That any proposed pruning of the Fig Tree be limited to 10% of the tree canopy as supervised by an arborist.*



- (b) *Upon submission of satisfactory details to Council regarding the above matters, the Group Manager Environment & Planning be delegated authority to determine the DA by approval subject to appropriate conditions.*
- (c) *That the persons who made submissions be notified of Council's decision.*

On being put to the Meeting, the voting on the Rescission Motion was seven (7) votes For and five (5) votes Against. The Rescission Motion was CARRIED.

**Record of Voting:**

For the Motion: The Mayor, Councillor Petch and Councillors Laxale, Li, Pendleton, Perram, Salvestro-Martin and Simon

Against the Motion: Councillors Chung, Etmekdjian, Maggio, Pickering and Yedelian OAM

The matter was then AT LARGE.

**RESOLUTION:** (Moved by Councillors Perram and Simon)

That the matter be referred to the Planning and Environment Committee for further consideration.

**Record of Voting:**

For the Motion: The Mayor, Councillor Petch and Councillors Chung, Etmekdjian, Laxale, Li, Maggio, Pendleton, Perram, Salvestro-Martin, Simon and Yedelian OAM

Against the Motion: Councillor Pickering

**QUESTIONS BY COUNCILLORS AS PER POLICY**

There were no Questions by Councillors as per Policy.

**PUBLIC PARTICIPATION ON ITEMS NOT LISTED ON THE AGENDA**

No addresses were made to Council.

## **CLOSED SESSION**

### **ITEM 1 – CONFIRMATION OF MINUTES – Extraordinary Council Meeting held on 25 September 2012**

#### **Confidential**

This item is classified CONFIDENTIAL under Section 10A(2) of the Local Government Act, 1993, which permits the meeting to be closed to the public for business relating to the following: (g) advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

This matter is classified confidential because it contains advice concerning legal matters that are:-

- (a) substantial issues relating to a matter to which the Council is involved.
- (b) clearly identified in the advice, and
- (c) fully discussed in that advice.

It is not in the public interest to reveal all details of this matter as it would prejudice Council's position in any court proceedings.

## **MAYORAL MINUTE**

### **MM11/12 SEEKING DIRECTION OF MINISTER RE DISCONTINUANCE OF SUPREME COURT PROCEEDINGS NO 2012/249917**

#### **Confidential**

This item is classified CONFIDENTIAL under Section 10A(2) of the Local Government Act, 1993, which permits the meeting to be closed to the public for business relating to the following: (g) advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

This matter is classified confidential because it contains advice concerning legal matters that are:-

- (a) substantial issues relating to a matter to which the Council is involved.
- (b) clearly identified in the advice, and
- (c) fully discussed in that advice.

It is not in the public interest to reveal all details of this matter as it would prejudice Council's position in any court proceedings.

**RESOLUTION:** (Moved by Councillors Maggio and Salvestro-Martin)

That the Council resolve into Closed Session to consider the above matters.

#### **Record of Voting:**

For the Motion: The Mayor, Councillor Petch and Councillors Chung, Etmekdjian, Laxale, Li, Maggio, Pendleton, Perram, Pickering, Salvestro-Martin and Simon

Against the Motion: Councillor Yedelian OAM

Note: The Council closed the meeting at 10.10pm. The public and media left the chamber.

**1 CONFIRMATION OF MINUTES - Extraordinary Council Meeting held on 25 September 2012**

Note: Confidential legal advice from AJL Legal dated 9 October 2012 was tabled in relation to this Item and a copy is ON FILE.

Council in closed session clarified aspects of the confidential attachment to the Minutes from the Extraordinary Council Meeting 17/12, held on 25 September 2012.

**COMPLETION OF BUSINESS**

**RECOMMENDATION:** (Moved by Councillors Li and Perram)

That the meeting time be extended to complete all business relating to this meeting, together with the meetings of 14 August and 28 August 2012, the time being 11.00pm.

**Record of Voting:**

For the Motion: The Mayor, Councillor Petch and Councillors Chung, Laxale, Li, Pendleton, Perram, Salvestro-Martin and Simon

Against the Motion: Councillors Etmekdjian, Maggio, Pickering and Yedelian OAM

**MAYORAL MINUTE**

**MM11/12 SEEKING DIRECTION OF MINISTER RE DISCONTINUANCE OF SUPREME COURT PROCEEDINGS NO 2012/249917**

Note: The Mayor, Councillor Petch disclosed a less than significant non-pecuniary interest in this Item for the reason that he is a Defendant in the proceedings.

Note: Councillor Li disclosed a less than significant non-pecuniary interest in this Item for the reason that he is a party to the proceedings referred to in the Mayoral Minute.

Note: Councillor Perram disclosed a less than significant non-pecuniary interest in this Item for the reason that he is a party to the proceedings No. 2012/249917.

Note: Councillor Salvestro-Martin disclosed a less than significant non-pecuniary interest in this matter for the reason that he is a party referred to in the proceedings.

**RECOMMENDATION:** (Moved by The Mayor, Councillor Petch and Councillor Perram)

That:

- (1) Council resolve and direct the Mayor to write to the Minister for Local Government forthwith seeking a direction from the Minister pursuant to section 458 of the Local Government Act 1993 for all members of the Council to vote on the following Mayoral Minute.

I formally move:-

“That in relation to Supreme Court proceedings 2012/249917:

- (a) the proceedings be discontinued
  - (b) the costs of the Plaintiff and Defendants be paid by Council on a full indemnity basis
  - (c) authority be delegated to the Mayor to provide, on behalf of Council, all necessary instructions to the Council’s solicitor as appointed by the Mayor and to do any other thing that may be necessary or convenient, to give effect to the foregoing resolutions.
  - (d) Council acknowledges and accepts that no further action will be taken to terminate the employment of the General Manager pending advice that the Independent Commission Against Corruption (ICAC) has concluded its investigations numbered E12/1191 and E12/1267.
  - (e) Council write to ICAC to seek any written updates on any conclusions to investigations numbered E12/1191 and E12/1627, and that these be reported to Council
- (2) To delegate to the Mayor authority to provide, on behalf of Council, all necessary instructions to the Council’s solicitor or Council staff as required, and to do any other thing that may be necessary or convenient, to give effect to the foregoing resolution.

**Record of Voting:**

For the Motion: The Mayor, Councillor Petch and Councillors Laxale, Li, Pendleton, Perram, Salvestro-Martin and Simon

Against the Motion: Councillors Chung, Etmekdjian, Maggio, Pickering and Yedelian  
OAM

## **OPEN SESSION**

**RESOLUTION:** (Moved by Councillors Perram and Salvestro-Martin )

That Council resolve itself into open Council.

### **Record of Voting:**

For the Motion: Unanimous

Note: Open Council resumed at 11.15pm.

Note: Councillor Pickering left the meeting at 11.16pm and did not return.

## **1 CONFIRMATION OF MINUTES - Extraordinary Council Meeting held on 25 September 2012**

**RESOLUTION:** (Moved by Councillors Perram and Salvestro-Martin)

- (a) That the Minutes of the Extraordinary Council Meeting 17/12, held on 25 September 2012 be confirmed.
- (b) That Council include the confidential attachment as circulated by the Mayor, Councillor Petch to be attached to the confidential section of the minutes from the meeting of 25 September 2012.
- (c) That Council note that the General Counsel's legal advice, which is a confidential attachment to the Minutes, was inadvertently placed on Council's website for a period of approximately one hour, when the Minutes were published on Thursday, 27 September 2012.

### **Record of Voting:**

For the Motion: Unanimous

## **ADOPTION OF ITEMS CONSIDERED IN CLOSED SESSION**

**RESOLUTION:** (Moved by The Mayor, Councillor Petch and Councillor Perram)

That the recommendations of Items considered in Closed Session be received and adopted as resolutions of Council without any alteration or amendment thereto.

### **Record of Voting:**

For the Motion: Unanimous

The meeting closed at 11.20pm.

CONFIRMED THIS 23RD DAY OF OCTOBER 2012

Chairperson