

Meeting Date: Tuesday 25 September 2012
Location: Council Chambers, Level 6, Civic Centre, 1 Devlin Street, Ryde
Time: 7.30pm

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

Apologies: Nil.

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

PRAYER

Pastor Dr Keith Ng of the Evangel Bible Church, Putney was present and 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 09/12 – Discontinuance of Supreme Court Proceedings No. 2012/249917 for the reason that now that he is subject to the restraint imposed by the Court for voting against a rescission motion.

Councillor Li disclosed a less than significant non-pecuniary interest in Mayoral Minute 09/12 – Discontinuance of Supreme Court Proceedings No. 2012/249917 for the reason that he is party to the proceedings referred to, as a result of being a member of the previous Council.

Councillor Perram disclosed a less than significant non-pecuniary interest in Mayoral Minute 09/12 – Discontinuance of Supreme Court Proceedings No. 2012/249917 for the reason that he is a defendant in these proceedings.

Councillor Salvestro-Martin disclosed a less than significant non-pecuniary interest in Mayoral Minute 09/12 – Discontinuance of Supreme Court Proceedings No. 2012/249917 for the reason that he is a listed party in these proceedings.

PUBLIC PARTICIPATION ON ITEMS LISTED ON THE AGENDA

No addresses were made to Council.

COUNCIL REPORTS

1 ELECTION OF MAYOR FOR ENSUING 12 MONTHS

At this stage of the meeting, the Mayor, Councillor Etmekdjian, thanked his fellow Councillors and staff for their support over the past 12 months. He then vacated the Chair and the General Manager, as Returning Officer, conducted the election of Mayor.

The General Manager, as Returning Officer, gave an overview of the election process.

The General Manager, as Returning Officer, presented the options on the method of voting for Mayor and requested a motion in respect of this Item.

RESOLUTION: (Moved by Councillors Maggio and Laxale)

- (a) That the method of voting for the election of Mayor be open voting by show of hands.
- (b) That the General Manager, as Returning Officer, undertake the election of Mayor for the ensuing twelve (12) months by announcing the nominations and then conducting the election.

Record of Voting:

For the Motion: Unanimous

As a result, THE METHOD OF VOTING FOR ELECTION OF MAYOR WAS OPEN VOTING BY SHOW OF HANDS.

The General Manager, as Returning Officer, advised that there were two (2) nominations for the Office of Mayor, namely Councillor Pickering and Councillor Petch.

The General Manager invited further nominations. There were no further nominations.

THE ELECTION FOR MAYOR was conducted by the General Manager, as Returning Officer, which resulted in the following voting:

Councillor Pickering 5 votes

Voting in favour: Councillors Chung, Etmekdjian, Maggio, Pickering and Yedelian OAM

Councillor Petch 7 votes

Voting in favour: Councillors Laxale, Li, Pendleton, Perram, Petch, Salvestro-Martin and Simon

As a result of the voting, COUNCILLOR PETCH WAS DULY ELECTED MAYOR FOR THE ENSUING YEAR.

The Mayor, Councillor Petch then assumed the Chair of Mayor, as Chairperson of the meeting.

The Mayor, Councillor Petch then gave a brief acknowledgement following his election.

2 DETERMINATION OF FEE FOR DEPUTY MAYOR

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

- (a) That the Deputy Mayor be paid, in addition to the Councillors' fee, a fee equivalent to 10% of the Mayor's annual fee.
- (b) That the amount of the fee be deducted from the Mayor's fee.

Record of Voting:

For the Motion: Unanimous

3 ELECTION OF DEPUTY MAYOR FOR ENSUING 12 MONTHS

METHOD OF VOTING FOR ELECTION OF DEPUTY MAYOR

The General Manager, as Returning Officer, presented the options on the method of voting for Deputy Mayor.

RESOLUTION: (Moved by Councillors Yedelian OAM and Perram)

- (a) That the method of voting for the election of Deputy Mayor be open voting by show of hands.
- (b) That the General Manager, as Returning Officer, undertake the election of Deputy Mayor for the ensuing twelve (12) months by announcing the nominations and then conducting the election.

Record of Voting:

For the Motion: Unanimous

As a result, THE METHOD OF VOTING FOR ELECTION OF DEPUTY MAYOR WAS OPEN VOTING BY SHOW OF HANDS.

The General Manager, as Returning Officer, advised that there were two (2) nominations for Office of Deputy Mayor, namely Councillor Maggio and Councillor Li.

The General Manager invited further nominations. There were no further nominations.

THE ELECTION FOR DEPUTY MAYOR was conducted by the General Manager, as Returning Officer, which resulted in the following voting:

Councillor Maggio 5 votes

Voting in favour: Councillors Chung, Etmekdjian, Maggio, Pickering and Yedelian OAM

Councillor Li 7 votes

Voting in favour: Councillors Laxale, Li, Pendleton, Perram, Petch, Salvestro-Martin and Simon

As a result of the voting, COUNCILLOR LI WAS DULY ELECTED DEPUTY MAYOR FOR THE ENSUING YEAR.

4 COUNCIL/COMMITTEE MEETINGS - Schedule and Appointment of Councillor Members to Standing Committees

RESOLUTION: (Moved by Councillors Salvestro-Martin and Simon)

- (a) That Council endorse its Standing Committees of Planning and Environment, Works and Community and Civic Precinct.
- (b) That Council endorse the attached draft meeting schedule for Committee and Council meetings for the remainder of 2012 and the full calendar year of 2013, noting that the schedule may be amended at any time, subject to one month transition period to allow for public notices to be given.
- (c) That Council endorse the following Councillors as members of the Planning and Environment Committee:
 - Councillor Simon
 - Councillor Salvestro-Martin
 - Councillor Maggio
 - Councillor Pendleton
 - Councillor Yedelian OAM
 - Councillor Chung

(d) That Council endorse the following Councillors as members of the Works and Community Committee:

- Councillor Perram
- Councillor Li
- Councillor Laxale
- Councillor Etmekdjian
- Councillor Pickering

Record of Voting:

For the Motion: Unanimous

5 ADVISORY AND EXTERNAL COMMITTEES - Appointment of Delegates

RESOLUTION: (Moved by Councillors Maggio and Pickering)

(a) That Council appoint the Mayor, Councillor Petch and Councillor Maggio as the two (2) formal delegates and Councillor Pickering and Councillor Laxale as alternate delegates to NSROC for the 2012/2013 year.

Record of Voting:

For the Motion: Unanimous

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

(b) That no formal Councillor delegate be appointed to the RMS Consultative Forum on the basis that all Councillors will be invited to attend the Forum when it is being held.

Record of Voting:

For the Motion: Unanimous

MOTION: (Moved by Councillors Pickering and Maggio)

(c) That Council reaffirm Council's General Manager, Mr John Neish and Group Manager – Public Works, Mr Terry Dodds as Council's delegates and Council's General Counsel, Mr Bruce McCann as the alternate to the Joint Regional Planning Panel.

AMENDMENT: (Moved by Councillors Simon and Li)

(c) That Council appoint Councillor Simon and Councillor Yedelian OAM as Council's delegates to the Joint Regional Planning Panel.

On being put to the Meeting, the voting on the Amendment was ten (10) votes For and two (2) votes Against. The Amendment was CARRIED. The Amendment then became the Motion.

Record of Voting:

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

Against the Amendment: Councillors Maggio and Pickering

RESOLUTION: (Moved by Councillors Simon and Li)

- (c) That Council appoint Councillor Simon and Councillor Yedelian OAM as Council's delegates to the Joint Regional Planning Panel.

Record of Voting:

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

Against the Motion: Councillors Maggio and Pickering

Note: Council then considered the appointment of an alternate delegate.

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

That Councillor Perram be appointed as the alternate delegate to the Joint Regional Planning Panel.

Record of Voting:

For the Motion: Unanimous

RESOLUTION: (Moved by Councillors Yedelian OAM and Perram)

- (d) That Council postpone the nomination of Councillors to Advisory Committees and conduct a workshop, noting that a review is currently being undertaken of the Advisory Committee Structure, in accordance with Council's previous resolution, with a further report to be provided back to Council for its consideration by November 2012.

Record of Voting:

For the Motion: Unanimous

RESOLUTION:

- (a) That Council appoint the Mayor, Councillor Petch and Councillor Maggio as the two (2) formal delegates and Councillor Pickering and Councillor Laxale as alternate delegates to NSROC for the 2012/2013 year.
- (b) That no formal Councillor delegate be appointed to the RMS Consultative Forum on the basis that all Councillors will be invited to attend the Forum when it is being held.
- (c) That Council appoint Councillor Simon and Councillor Yedelian OAM as Council's delegates to the Joint Regional Planning Panel.

That Councillor Perram be appointed as the alternate delegate to the Joint Regional Planning Panel.

- (d) That Council postpone the nomination of Councillors to Advisory Committees and conduct a workshop, noting that a review is currently being undertaken of the Advisory Committee Structure, in accordance with Council's previous resolution, with a further report to be provided back to Council for its consideration by November 2012.

6 2012 LOCAL GOVERNMENT ASSOCIATION CONFERENCE - Dubbo 28 - 30 October 2012 - Confirmation of Delegates

RESOLUTION: (Moved by Councillors Yedelian OAM and Etmekdjian)

- (a) That the Mayor, Councillor Petch and Councillors Yedelian OAM, Chung, Pickering and Laxale be confirmed as voting delegates and Councillor Etmekdjian be appointed as an observer for the 2012 Local Government Association Conference in Dubbo from 28 – 30 October 2012.
- (b) That Councillors Perram and Maggio attend the Bike Futures Conference in Melbourne on 17, 18 and 19 October 2012.

Record of Voting:

For the Motion: Unanimous

ADJOURNMENT OF MEETING

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

That this meeting stand adjourned and be reconvened at 11.30pm on Tuesday, 25 September 2012, the time being 8.20pm.

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

The following Councillors were present:

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

MEETING RECONVENED

The Meeting reconvened at 11.36pm on Tuesday, 25 September 2012 in the Council Chambers, Level 6 of the Civic Centre, 1 Devlin Street, Ryde.

The following Councillors were present:

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

Staff Present: General Manager, Group Manager – Community Life, Group Manager - Corporate Services, Group Manager – Environment & Planning, Group Manager - Public Works, General Counsel, Media and Communications Manager and Service Unit Manager – Governance.

EXTENSION OF TIME – COMPLETION OF BUSINESS

RESOLUTION: (Moved by Councillors Perram and Li)

That Council extend the meeting closing time to allow the completion of all business, the time being 11.37pm.

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

CLOSED SESSION**MAYORAL MINUTE****MM09/12 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 The Mayor, Councillor Petch and Councillor Perram)

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

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

Note: The Council closed the meeting at 11.38pm. The public and media left the chamber.

MAYORAL MINUTE**MM09/12 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 now that he is subject to the restraint imposed by the Court for voting against a rescission motion.

Note: Councillor Li disclosed a less than significant non-pecuniary interest in this Item for the reason that he is party to the proceedings referred to, as a result of being a member of the previous Council.

Note: Councillor Perram disclosed a less than significant non-pecuniary interest in this Item for the reason that he is a defendant in these proceedings.

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

Note: Council's General Counsel provided confidential legal advice to Council in Closed Session and a copy of this advice is CIRCULATED UNDER SEPARATE COVER - CONFIDENTIAL.

ACT OF DISORDER

Note: Councillor Salvestro-Martin left the meeting, the time being 11.57pm and did not vote on this Item.

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

That Councillor Pickering be ordered to leave the meeting and be required to absent himself from the meeting until he apologises to the Chair.

Record of Voting:

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

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

Note: Councillor Salvestro-Martin returned to the meeting, the time being 12.00am.

Note: Councillor Pickering left the meeting as resolved by Council, the time being 12.00am and did not return to the meeting.

MAYORAL MINUTE

MM09/12 DISCONTINUANCE OF SUPREME COURT PROCEEDINGS NO 2012/249917

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

1. That Council resolve, in relation to Supreme Court proceedings 2012/249917:
 - a. to consent to orders:
 - i. that the order, made by her Honour Justice Schmidt on 24 September 2012, extending the orders made on 14 August 2012 be extended pending further of the Court, be discharged; and

- ii. that Council's amended Notice of Motion dated 24 September 2012, and filed in the Court on that day pursuant to leave granted by her Honour Justice Schmidt, be dismissed with costs reserved; and
- b. that HWL Ebsworth Lawyers be instructed:
 - i. to seek as a matter of urgency, from the solicitor for the defendants in the proceedings, the consent of the respondents to the said motion to the orders to which Council has resolved to consent; and
 - ii. upon confirmation that such consent is provided by or on behalf of the respondents to the said motion, as a matter of urgency to inform the Associate to her Honour Justice Schmidt that the said motion has settled, and that judgement in respect of the said motion is no longer required, and to take all such steps as her Honour Justice Schmidt may specify, as or may otherwise be necessary or appropriate, to give formal confirmation to the settlement of the said motion.
- c. to delegate to the Mayor authority to provide, on behalf of Council, all necessary instructions to HWL Ebsworth Lawyers, and to do any other thing that may be necessary or convenient, to give effect to the foregoing resolutions.

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 and Yedelian OAM

Note: A Rescission Motion in relation to this matter was lodged by Councillors Perram, Li and Pendleton immediately following the above Resolution, the time being 12.06am.

MATTER OF URGENCY

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

That the Notice of Rescission – Mayoral Minute 09/12 – Discontinuance of Supreme Court Proceedings No. 2012/249917 be considered as a Matter of Urgency, the time being 12.06am.

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 and Yedelian OAM

NOTICE OF RESCISSION – MAYORAL MINUTE 09/12 – DISCONTINUANCE OF SUPREME COURT PROCEEDINGS NO. 2012/249917

MOTION: (Moved by Councillors Perram and Simon)

That Council rescind the previous resolution in relation to MAYORAL MINUTE 09/12 – Discontinuance of Supreme Court Proceedings No. 2012/249917, passed at the Council Meeting held on 25 September 2012, namely:

1. *That Council resolve, in relation to Supreme Court proceedings 2012/249917:*
 - a. *to consent to orders:*
 - ii. *that the order, made by her Honour Justice Schmidt on 24 September 2012, extending the orders made on 14 August 2012 be extended pending further of the Court, be discharged; and*
 - ii. *that Council’s amended Notice of Motion dated 24 September 2012, and filed in the Court on that day pursuant to leave granted by her Honour Justice Schmidt, be dismissed with costs reserved; and*
 - b. *that HWL Ebsworth Lawyers be instructed:*
 - i. *to seek as a matter of urgency, from the solicitor for the defendants in the proceedings, the consent of the respondents to the said motion to the orders to which Council has resolved to consent; and*
 - iii. *upon confirmation that such consent is provided by or on behalf of the respondents to the said motion, as a matter of urgency to inform the Associate to her Honour Justice Schmidt that the said motion has settled, and that judgement in respect of the said motion is no longer required, and to take all such steps as her Honour Justice Schmidt may specify, as or may otherwise be necessary or appropriate, to give formal confirmation to the settlement of the said motion.*
 - c. *to delegate to the Mayor authority to provide, on behalf of Council, all necessary instructions to HWL Ebsworth Lawyers, and to do any other thing that may be necessary or convenient, to give effect to the foregoing resolutions.*

Record of Voting:

For the Motion: Councillors Chung, Etmekdjian, Maggio and Yedelian OAM

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

The Rescission Motion was LOST.

Note: A Rescission Motion in relation to Item 5 (Part 2) - City of Ryde Precinct Redevelopment Tender passed at the Council meeting held on 12 June 2012 was lodged at 12.08am signed by Councillors Perram, Li and Pendleton.

OPEN SESSION

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

That Council resolve itself into open Council.

Record of Voting:

For the Motion: Unanimous

Note: Open Council resumed at 12.11am.

ADOPTION OF ITEMS CONSIDERED IN CLOSED SESSION

RESOLUTION: (Moved by Councillors Perram and Li)

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

Against the Motion: Councillors Maggio and Yedelian OAM

MATTER OF URGENCY

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

That the Notice of Rescission – Item 5 (Part 2) - City of Ryde Precinct Redevelopment Tender be considered as a Matter of Urgency, the time being 12.12am.

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, Maggio, Etmekdjian and Yedelian OAM

NOTICE OF RESCISSION – ITEM 5 (PART 2) - CITY OF RYDE PRECINCT REDEVELOPMENT TENDER

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

That Council rescind the previous resolution in relation to ITEM 5 (PART 2) – CITY OF RYDE PRECINCT REDEVELOPMENT TENDER, passed at the Council Meeting held on 12 June 2012, namely:

1. *That Council note the report from the General Manager, and the report from the tender evaluation panel (**ATTACHMENT E – CIRCULATED UNDER SEPARATE COVER – CONFIDENTIAL**), in relation to responses received from Lend Lease Development Pty Limited and Billbergia Pty Limited/Frasers Property Australia Pty Limited to the Request for Tenders.*

That Council adopts the recommendation from the tender evaluation panel as reviewed and approved by the General Manager and not accept either tender on the basis that whilst the tenders received demonstrated substantial compliance with Council's project objectives of community benefit, revitalisation, design, sustainability, financial viability and traffic, the tenders displayed deficiencies in the following areas:

- (a) Council's preferred financial objectives were not fully achieved;*
- (b) the proposed risk allocations were not fully in accordance with Council's preferred risk profile;*
- (c) certain elements of Council's performance brief were not fully complied with; and*
- (d) the form of the tenders submitted were not sufficiently legally certain and complete as to enable Council to accept them.*

And that Council resolves *that having regard to clause 178(1) of the Local Government (General) Regulation 2005 and having regard to the tenders received in response to the Request for Tenders, the recommendations of the General Manager and the recommendations from the tender evaluation panel, no tender be accepted.*

2. *That Council notes the recommendations of the General Manager and the tender evaluation panel that Council (subject to confirmation of Lend Lease board approval) enter into negotiations with Lend Lease Development Pty Limited with a view to concluding a contract, on the basis of the reasons set out in the confidential report from the tender evaluation panel:*

And that Council resolves *that having regard to clause 178(3)(e) of the Local Government (General) Regulation 2005 and having regard to the recommendations of the General Manager and the tender evaluation panel, to further the procurement process for the selection of an appropriate development partner (subject to confirmation of Lend Lease board approval) by entering into negotiations with Lend Lease Development Pty Limited with a*

view to entering into a Project Delivery Agreement (and all documents referred to as Project Documents in the Project Delivery Agreement) preferably by August 2012 in relation to the Ryde Civic Redevelopment for the reasons that:

- (a) the tender submitted by Lend Lease Development Pty Limited achieved a superior ranking by the tender evaluation panel and subsequent meetings with both proponents to appreciate areas where negotiations might result in improvements to Council's position confirmed this ranking; and*
 - (b) other options available to Council such as inviting fresh tenders or fresh applications from other persons or Council implementing one of several options ie: 'Do Nothing' or 'Refurbishment' or carrying out the redevelopment itself would not achieve a more satisfactory result for the following reasons:*
 - (i) the procurement process involving an expressions of interest and request for tenders has fully tested the market and any new tender process would be unlikely to produce a better result;*
 - (ii) any new tender process would involve Council in substantial additional costs without any certainty of a better result;*
 - (iii) any new tender process would involve a reputation risk to Council with tenderers being exposed to the substantial costs of tendering and having potentially lacking confidence in Council's process;*
 - (iv) the 'Do Nothing' option would lead to ultimate building failure over the next five to seven years;*
 - (v) the 'Refurbishment Option' will incur considerable additional costs to Council over the next ten years which would be significantly greater than the final net cost of proceeding with a Project Delivery Agreement with Lend Lease Development Pty Limited and in doing so would leave Council significantly disadvantaged; and*
 - (vi) as previously advised to Council, Council does not have the experience, capability, risk appetite or the cash available to undertake the project itself.*
- 3. That Council note the recommendations of the General Manager that Council enter into a Project Development Agreement (and all documents referred to as Project Documents in the Project Delivery Agreement) with Lend Lease Development Pty Limited on terms the General Manager approves and is reasonably satisfied are substantially consistent with or more favourable to Council than, the Commercial and Risk Principles set out in Confidential Attachment G.*

And that Council resolves that Council enter into a Project Delivery Agreement (and all documents referred to as Project Documents in the Project Delivery Agreement) on terms approved by the General Manager and which he is reasonably satisfied are substantially consistent with or more favourable to Council than, the Commercial and Risk Principles set out in **ATTACHMENT G - CIRCULATED UNDER SEPARATE COVER - CONFIDENTIAL**.

4. That Council notes the recommendation that Council delegates to the General Manager the authority to negotiate with Lend Lease Development Pty Limited with a view to finalising and executing the Project Delivery Agreement (and all documents referred to as Project Documents in the Project Delivery Agreement) on terms approved by the General Manager and which he is reasonably satisfied are substantially consistent with or more favourable to Council than, the Commercial and Risk Principles set out in Confidential Attachment G.

And that Council resolves that pursuant to section 377(1) of the Local Government Act 1993, Council delegates to the General Manager the authority to finalise and execute the Project Delivery Agreement (and all documents referred to as Project Documents in the Project Delivery Agreement) with Lend Lease Development Pty Limited once he has approved the final form of that documentation and is reasonably satisfied the documentation is substantially consistent with or more favourable to Council than, the Commercial and Risk Principles set out in Confidential Attachment G.

That Council notes that a funding option offered by Lend Lease Development Pty Limited provides the best financial return to Council through the delivery of a low cost of capital solution by utilising Council's ability to borrow funds at a much lower levels than Lend Lease's cost of capital.

And that Council resolves that it prefers the Lend Lease funding option and authorises the General Manager to undertake a tender process to provide the most advantageous outcome for Council for a \$35 million loan over a six year period, where the principal and interest is guaranteed by Lend Lease to Council and the funding is provided at no net cost to Council, the details of which will form part of the Project Delivery Agreement.

5. That Council notes that Stage 3 of the Civic Precinct project will be achieved upon the completion of negotiations with a preferred development partner.

And that Council Resolves:

- (a) to implement Stage 4 in accordance with these recommendations and the indicative program provided in this report and maintain the Civic Precinct development team of contractors/consultants to do so and extend the delegation of the General Manager pursuant to section 377(1) of the Local Government Act 1993, to negotiate extensions of procurement arrangements and execute all relevant documentation with

external providers for Stage 4, where Council's commitment to those providers will exceed \$150,000 over all 4 stages of the project; being:

- (i) Forbrook Group Pty Ltd;*
 - (ii) Kathy Jones and Associates; and*
 - (iii) Michael Collins and Associates, and*
- (b) that pursuant to section 55(3) of the Local Government Act 1993, that a satisfactory result would not be achieved by inviting tenders for the services to be provided by the external providers (as listed above) because of extenuating circumstances, by reason that a costly tender process to procure new external providers would not achieve a satisfactory result having regard to:*
- (i) the whole of life costs for the project when taking into account the amount of time, risks and resources that may be required to brief new consultants;*
 - (ii) Council's desire for continuity in the project and the intellectual property held by those external providers in relation to the project; and*
 - (iii) the timetable adopted by Council to progress to Stage 4,*

and accordingly, that Council will not be inviting tenders for the services to be provided by the external providers (as listed above).

6. *That Council notes that until such time as Council resolves to proceed with the Civic Precinct redevelopment, or commits to a 'Do Nothing' approach, that Council is unable to integrate the financial models relating to this report into its Four Year Delivery Plan and its Long Term Financial Plan.*

And that Council Resolves: *to adjust its Four Year Delivery Plan and its Long Term Financial Plan to reflect the impacts of the Lend Lease funding option as outlined in the confidential attachments to this report and finalised by negotiation with the General Manager.*

7. *That Council enter into a legally enforceable Memorandum of Understanding with Lend Lease Development Pty Limited, consistent with the Project Delivery Agreement referred to in Parts 4 and 5 above, on terms approved by the General Manager, and which he is reasonably satisfied are substantially consistent with, or more favourable to Council than, the Commercial and Risk Principles set out in Confidential Attachment G, and that, pursuant to Section 377(1) of the Local Government Act 1993, Council delegates to the General Manager the authority to finalise and execute that Memorandum of Understanding should the General Manager deem it commercially appropriate to do so.*

On being put to the Meeting, the voting on the Rescission Motion was seven (7) votes For and four (4) 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 and Yedelian OAM

The matter was then AT LARGE.

RESOLUTION: (Moved by Councillors Perram and Simon)

That Council declares that it does not intend to proceed with the Civic Precinct Redevelopment project and requests the General Manager to take no further action that would progress the project and that the Mayor immediately make the above declaration and request on behalf of Council.

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 and Yedelian OAM

Note: A Rescission Motion signed by Councillors Perram, Li and Pendleton was lodged in relation to this matter immediately following the above Resolution, the time being 12.25am.

MATTER OF URGENCY

Note: The Mayor, Councillor Petch determined that the Rescission Motion was a Matter of Urgency.

RESCISSION MOTION – CITY OF RYDE PRECINCT REDEVELOPMENT TENDER

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

That Council rescind the previous resolution in relation to CITY OF RYDE PRECINCT REDEVELOPMENT TENDER, passed at the Council Meeting held on 25 September 2012, namely:

That Council declares that it does not intend to proceed with the Civic Precinct Redevelopment project and requests the General Manager to take no further action that would progress the project and that the Mayor immediately make the above declaration and request on behalf of Council.

Record of Voting:

For the Motion: Councillors Chung and Etmekdjian

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

The Rescission Motion was LOST.

NATIONAL ANTHEM

The National Anthem was sung at the conclusion of the meeting.

The meeting closed at 12.29am on Wednesday, 26 September 2012.

CONFIRMED THIS 9TH DAY OF OCTOBER 2012

Chairperson