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**NSW ICAC
EXHIBIT**



City of Ryde

**General Manager
Contract of Employment**

General Manager Contract of Employment
John Neish – General Manager

NSW ICAC EXHIBIT

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**NSW ICAC
EXHIBIT****Contract of Employment**

This Contract of Employment is made on

Date: 14th October 2009.

between

Council of the City of Ryde
[Referred to in this contract as "Council"]

Civic Centre
1 Devlin Street
RYDE NSW 2112

and

John Neish
[Referred to in this contract as "the employee"]

[REDACTED]

**NSW ICAC
EXHIBIT****1 Position**

The position to which this contract applies is that of General Manager.

2 Term

Subject to the terms and conditions in this contract, Council will employ the employee for a term of:

five years,

commencing on 4 January 2010

and terminating on 3 January 2015.

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3 Definitions

3.1 In this contract, unless otherwise stated or indicated.

the Act means the *Local Government Act 1993*.

Code of conduct means the document within the meaning of section 440 of the Act adopted by Council and which incorporates the provisions of the model code.

Commencement date means the date that this contract commences as specified in clause 2.

Confidential Information means any and all confidential information, data, reports, operations, dealings, records, materials, plans, statistics, finances or other agreements and things (other than that which is already in the public domain), whether written or oral and of whatever type or nature relating to property, assets, liabilities, finances, dealings or functions of Council or any undertaking from time to time carried out by Council.

Director-General means the Director-General of the New South Wales Department of Local Government.

Equal employment opportunity management plan means the document a council must prepare under Part 4 of Chapter 11 of the Act.

Minister means the New South Wales Minister for Local Government.

Model code means the Model Code of Conduct for Local Councils in NSW prescribed by the Regulation.

Month means a calendar month.

Performance agreement means the agreement referred to in clause 7.

Performance criteria means the criteria to which a performance review is to have regard.

Performance review means a review of the employee's performance conducted in accordance with the procedures under clause 7.

the position means the position referred to in clause 1.

the Regulation means the *Local Government (General) Regulation 2005*.

Senior executive office holder (New South Wales Public Service) means the holder of a senior executive position within the meaning of the *Public Sector Employment and Management Act 2002*.

Statutory and Other Officers Remuneration Tribunal means the Statutory and Other Officers Tribunal constituted under the *Statutory and Other Officers Remuneration Act 1975*.

Termination date means the date that this contract terminates as specified in clause 2.

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- 3.2 Expressions in this contract corresponding with expressions that are defined in the Act have those meanings.

4. Contract operation and application

- 4.1 This contract constitutes a contract of employment for the purposes of section 338 of the Act, and governs the employment of the employee while in the position.
- 4.2 A reference in this contract to any Act or regulation, or any provision of any Act or regulation, includes a reference to subsequent amendments of that Act, regulation or provision.
- 4.3 A reference to a Schedule to this contract refers to a Schedule as may be varied in accordance with this contract, and applies whether or not the Schedule has been physically attached to this contract.
- 4.4 Where the mayor or any other person is lawfully authorised to act as Council or Council's delegate for the purpose of this contract, this contract will be construed as if:
- (a) any reference to Council includes a reference to that authorised person, and
 - (b) any reference to a requirement for Council's approval includes a reference to a requirement for that authorised person's written approval.
- 4.5 Any staff entitlement under a lawful policy of Council as adopted by Council from time to time and that is set out in Schedule A will apply to the employee unless this contract makes express provision to the contrary. Schedule A may be varied from time to time by agreement between the employee and Council, such agreement not to be unreasonably withheld.
- 4.6 Subject to clauses 7 and 13, the terms of this contract, as varied from time to time in accordance with this contract, represent the entire terms of all agreements between the employee and Council and replace all other representations, understandings or arrangements made between the employee and Council that relate to the employment of the employee in the position.

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EXHIBIT****5. Renewal of appointment**

- 5.1 At least 9 months before the termination date (or 6 months if the term of employment is for less than 3 years) the employee will apply to Council in writing if seeking re-appointment to the position.
- 5.2 At least 6 months before the termination date (or 3 months if the term of employment is for less than 3 years) Council will respond to the employee's application referred to in subclause 5.1 by notifying the employee in writing of its decision to either offer the employee a new contract of employment (and on what terms) or decline the employee's application for re-appointment.
- 5.3 At least 3 months before the termination date (or 1 month if the term of employment is for less than 3 years) the employee will notify Council in writing of the employee's decision to either accept or decline any offer made by Council under subclause 5.2.
- 5.4 In the event the employee accepts an offer by Council to enter into a new contract of employment, a new contract of employment will be signed.

6. Duties and functions**6.1 The employee will:**

- 6.1.1 to the best of their ability, meet the performance criteria set out in the performance agreement as varied from time to time,
- 6.1.2 carry out the duties and functions imposed by the Act and Regulation, or any other Act and associated regulations, which include but are not limited to:
- (a) the efficient and effective operation of Council's organisation,
 - (b) implementing, without undue delay, the decisions of Council,
 - (c) exercising such of the functions of Council as are delegated by Council to the employee,
 - (d) appointing staff in accordance with an organisation structure and resources approved by Council,

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- (e) directing and dismissing staff,
 - (f) implementing Council's equal employment opportunity management plan,
 - (g) consulting with Council prior to the appointment or dismissal of senior staff,
 - (h) reporting to Council, at least once annually, on the contractual conditions of senior staff,
 - (i) giving immediate notice to Council on becoming bankrupt or making a composition, arrangement or assignment for the benefit of the employee's creditors and providing Council, within the time specified by Council with any further information concerning the cause of the bankruptcy or of the making of the composition, arrangement or assignment,
 - (j) subject to subclause 6.2.3, providing advice and recommendations to Council or the mayor if directed to do so,
 - (k) not engaging, for remuneration, in private employment or contract work outside the service of Council without the approval of Council,
 - (l) not approving, where appropriate, any member of Council staff from engaging, for remuneration, in private employment or contract work outside the service of Council that relates to the business of Council or that might conflict with the staff member's Council duties,
 - (m) acting honestly and exercising a reasonable degree of care and diligence in carrying out the employee's duties and functions,
 - (n) complying with the provisions of the code of conduct,
 - (o) preparing and submitting written returns of interest and disclosing pecuniary interests in accordance with the Act and the Regulation,
- 6.1.3 carry out the duties and functions set out in Schedule B as varied from time to time by agreement between the employee and Council, such agreement not to be unreasonably withheld,
- 6.1.4 carry out the duties and functions set out in the policies of Council as adopted by Council from time to time during the term of this contract,

- 6.1.5 observe and carry out all lawful directions given by Council, in relation to the performance of the employee's duties and functions under this contract,
- 6.1.6 work such reasonable hours as are necessary to carry out the duties and functions of the position and the employee's obligations under this contract,
- 6.1.7 obtain the approval of the Council for any absences from the business of Council,
- 6.1.8 promote ethical work practices and maintain a culture of integrity and professionalism where Council staff members treat each other, members of the public, customers and service providers with respect and fairness,
- 6.1.9 facilitate Council staff awareness of the procedures for making protected disclosures and of the protection provided by the *Protected Disclosures Act 1994*,
- 6.1.10 take all reasonable steps to ensure that actions and policies of Council accord with the strategic intent of Council,
- 6.1.11 take all reasonable steps to maximise compliance with relevant legislative requirements,
- 6.1.12 maintain effective corporate and human resource planning,
- 6.1.13 maintain the Council staff performance management system,
- 6.1.14 maintain satisfactory operation of Council's internal controls, reporting systems (including protected disclosures), grievance procedures, the documentation of decision-making and sound financial management,
- 6.1.15 develop procedures to ensure the code of conduct is periodically reviewed so that it is in accordance with the Act and Regulation and adequately reflects specific organisational values and requirements,
- 6.1.16 promote and facilitate compliance with the code of conduct ensuring that each councillor and Council staff member is familiar with its provisions, and

- 6.1.17 report to Council on any overseas travel taken by the employee or any Council staff member where that travel is funded in whole or in part by Council.

6.2 Council will:

- 6.2.1 provide adequate resources to enable the employee to carry out the duties and functions specified in subclause 6.1 and Schedule B,
- 6.2.2 provide the employee with reasonable opportunities to participate in professional development initiatives relevant to the duties and functions under this contract subject to the operational needs of Council, and
- 6.2.3 not direct the employee as to the content of any advice or recommendation made by the employee.

7. Performance agreement and review

- 7.1 Within 3 months after the commencement date, the employee and Council will sign a performance agreement setting out agreed performance criteria.
- 7.2 In the event that the employee and Council are unable to agree on the performance criteria, Council will determine such performance criteria that are reasonable and consistent with the employee's duties and functions under clause 6 and in Schedule B.
- 7.3 The performance agreement may be varied from time to time during the term of this contract by agreement between the employee and Council, such agreement not to be unreasonably withheld.
- 7.4 Within 2 months after signing or varying the performance agreement, the employee will prepare and submit to Council an action plan which sets out how the performance criteria are to be met.

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- 7.5 Council will ensure that the employee's performance is reviewed (and, where appropriate, the performance agreement varied) at least annually. Any such review is to have regard to the performance criteria.
- 7.6 The employee will give Council 21 days' written notice that an annual performance review in accordance with subclause 7.5 is due.
- 7.7 Council will give the employee at least 10 days notice in writing that any performance review is to be conducted.
- 7.8 The structure and process of the performance review is at the discretion of Council following consultation with the employee.
- 7.9 The employee may prepare and submit to Council an assessment of the employee's own performance prior to a performance review.
- 7.10 Within 6 weeks from the conclusion of a performance review, Council will prepare and send to the employee a written statement that sets out:
- (a) Council's conclusions about the employee's performance during the performance review period,
 - (b) any proposal by Council to vary the performance criteria as a consequence of a performance review, and
 - (c) any directions or recommendations made by Council to the employee in relation to the employee's future performance of the duties of the position.
- 7.11 The employee and Council will, as soon as possible after the employee receives the written statement referred to in subclause 7.10, attempt to come to agreement on any proposal by Council to vary the performance criteria and on any recommendations by Council as to the future performance of the duties of the position by the employee.
- 7.12 Subject to the employee being available and willing to attend a performance review, Council undertakes that if a performance review is not held in accordance with this clause, this will not operate to the prejudice of the employee unless the employee is responsible for the failure to hold the performance review.

8. Remuneration

- 8.1 Council will provide the employee with the total remuneration package set out in Schedule C.
- 8.2 The total remuneration package includes salary, compulsory employer superannuation contributions and other benefits including any fringe benefits tax payable on such benefits.
- 8.3 Council may, on only one occasion during each year of this contract, approve an increase in the total remuneration package where the employee's performance has been assessed in accordance with a performance review as being of a better than satisfactory standard.
- 8.4 Any increase in remuneration approved under subclause 8.3 will not be paid as a lump sum.
- 8.5 On each anniversary of the commencement date, the total remuneration package will be increased by a percentage amount that is equivalent to the latest percentage amount increase in remuneration for senior executive office holders as determined by the Statutory and Other Officers Remuneration Tribunal.
- 8.6 The structure of the total remuneration package may be varied from time to time during the term of this contract by agreement between the employee and Council, such agreement not to be unreasonably withheld.
- 8.7 The total remuneration package, as varied from time to time, remunerates the employee for all work undertaken by the employee while in the position. No other remuneration, benefit, overtime or allowances other than those to which the employee may be entitled under this contract will be paid to the employee during the term of this contract.

9. Leave**9.1 General**

9.1.1 Council will pay remuneration calculated in accordance with Schedule C to the employee proceeding on paid leave under this clause.

9.1.2 On the termination of this contract, and if the employee is not reappointed to the position under clause 5 or appointed to any other position in Council's organisation structure, the Council will pay:

- (a) to the employee in the case of annual leave, or
- (b) to the employee or new employer council in the case of long service leave, accrued but unused leave entitlements calculated at the monetary value of the total remuneration package as specified in Schedule C.

9.1.3 If the employee is re-appointed to the position under clause 5 or appointed to any other position in Council's organisation structure within 3 months after the termination of this contract, the employee will be taken to have continuing service with Council for the purpose of determining the employee's entitlement to annual leave, long service leave and sick leave.

9.1.4 Any leave accrued with Council standing to the credit of the employee immediately prior to entering into this contract will be taken to be leave for the purposes of this contract.

9.2 Annual leave

The employee is entitled to four weeks paid annual leave during each year of employment under this contract to be taken as agreed between the employee and Council.

9.3 Long service leave

9.3.1 The employee's entitlement to long service leave is to be calculated by the same method that applies to a non-senior member of Council staff.

9.3.2 Long service leave is transferable between councils in New South Wales in the same manner that applies to a non-senior member of Council staff.

9.4 Sick leave

9.4.1 The employee is entitled to 15 days paid sick leave during each year of employment under this contract provided that:

- (a) Council is satisfied that the sickness is such that it justifies time off, and
- (b) satisfactory proof of illness to justify payment is provided to Council for absences in excess of two days.

9.4.2 Sick leave will accumulate from year to year of employment under this contract so that any balance of leave not taken in any one year may be taken in a subsequent year.

9.4.3 Council may require the employee to attend a doctor nominated by Council at Council's cost.

9.4.4 Accrued but unused sick leave after 15th February, 1993 will not be paid out on the termination of this contract. (See Schedule A).

9.5 Parental leave

9.5.1 Parental leave includes supporting parent's leave, maternity leave, paternity leave and adoption leave.

9.5.2 The employee is entitled to the same parental leave that a non-senior member of Council staff would be entitled.

9.6 Carer's leave

The employee is entitled to the same carer's leave that a non-senior member of Council staff would be entitled.

9.7 Concessional leave

The employee is entitled to the same concessional leave that a non-senior member of Council staff would be entitled.

9.8 Special leave

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.

10 Termination**10.1 General**

On termination of this contract for any reason the employee will immediately return to Council all property of Council in the employee's possession including intellectual property and confidential information and will not keep or make any copies of such property and information.

10.2 Termination date

The employment of the employee under this contract terminates on the termination date.

10.3 Termination by either the employee or Council

This contract may be terminated before the termination date by way of any of the following:

10.3.1 written agreement between the employee and Council,

10.3.2 the employee giving 4 weeks' written notice to Council,

10.3.3 Council giving 4 weeks' written notice to the employee, or alternatively by termination payment under subclause 11.1, where:

- (a) the employee has been incapacitated for a period of not less than 12 weeks and the employee's entitlement to sick leave has been exhausted, and
- (b) the duration of the employee's incapacity remains indefinite or is likely to be for a period that would make it unreasonable for the contract to be continued,

10.3.4 Council giving 13 weeks' written notice to the employee, or alternatively, by termination payment under subclause 11.2 where Council:

- (a) has conducted a performance review, and
- (b) concluded that the employee has not substantially met the performance criteria or the terms of the performance agreement,

10.3.5 Council giving 38 weeks' written notice to the employee, or alternatively, by termination payment under subclause 11.3.

10.4 Summary dismissal

10.4.1 Council may terminate this contract at any time and without notice if the employee commits any act that would entitle an employer to summarily dismiss the employee. Such acts include but are not limited to:

- (a) serious or persistent breach of any of the terms of this contract,
- (b) serious and willful disobedience of any reasonable and lawful instruction or direction given by Council,
- (c) serious and willful misconduct, dishonesty, insubordination or neglect in the discharge of the employee's duties and functions under this contract,
- (d) failure to comply with any law or Council policy concerning sexual harassment or racial or religious vilification,
- (e) commission of a crime, resulting in conviction and sentencing (whether or not by way of periodic detention), which affects the employee's ability to perform the employee's duties and functions satisfactorily, or in the opinion of Council brings Council into disrepute,
- (f) absence from the business of Council without Council approval for a period of 3 or more consecutive business days.

10.4.2 This contract is terminated immediately without notice if the employee becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit.

11 Termination payments

- 11.1 On termination of this contract under subclause 10.3.3, where written notice has not been given, Council will pay the employee a monetary amount equivalent to 4 weeks' remuneration calculated in accordance with Schedule C.
- 11.2 On termination of this contract under subclause 10.3.4, where written notice has not been given, Council will pay the employee a monetary amount equivalent to 13 weeks' remuneration calculated in accordance with Schedule C.
- 11.3 On termination of this contract under subclause 10.3.5, where written notice has not been given, Council will pay the employee a monetary amount equivalent to 38 weeks' remuneration calculated in accordance with Schedule C, or the remuneration which the employee would have received if the employee had been employed by Council to the termination date, whichever is the lesser.
- 11.4 On termination of this contract under subclause 10.3.1, 10.3.2, 10.4.1 or 10.4.2, Council will pay the employee remuneration up to and including the date of termination calculated in accordance with Schedule C and any other payment to which the employee is entitled under this contract.

12 Expenses and credit cards

In addition to any duties or entitlements that may be set out in any relevant policies of Council as adopted by Council from time to time, the employee will:

- 12.1 keep such records of expenses, travel and motor vehicle use as required by Council from time to time,
- 12.2 be reimbursed by Council for expenses properly incurred on Council business, subject to Council's prior approval to this expense being incurred,
- 12.3 only use any credit card provided by Council for expenses incurred on Council business, and

12.4 return any credit card provided by Council on request from Council.

13 Intellectual property

- 13.1 Any literary work, computer program, invention, design, patent, copyright, trademark, improvement or idea developed by the employee in the course of employment under this contract is the sole property of Council and Council will unless otherwise agreed have the exclusive right to use, adapt, patent and otherwise register it.
- 13.2 The employee will immediately disclose to Council any literary work, computer program, invention, design, patent, copyright, trademark, improvement or idea developed by the employee after the commencement date to enable Council to ascertain whether it was discovered, developed or produced wholly outside and wholly unconnected with the course of employment under this contract.
- 13.3 To protect disclosures made in accordance with subclause 13.2, Council or the employee may require a confidentiality agreement to be signed prior to, during or immediately after discussion of the intellectual property being considered.
- 13.4 The employee assigns to Council by way of future assignment all copyright, design, design right and other property rights (if any) in respect to any literary work, computer program, invention, design, patent, copyright, trademark, improvement or idea developed by the employee in the course of employment under this contract.
- 13.5 At the request and expense of Council the employee will complete all necessary deeds and documents and take all action necessary to vest in Council any literary work, computer program, invention, design, patent, copyright, trademark, improvement or idea developed by the employee in the course of employment under this contract and obtain for Council the full benefit of all patent, trademark, copyright and other forms of protection throughout the world.

14 Confidential information

The employee will not divulge any confidential information about Council either during or after the term of their employment under this contract.

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EXHIBIT****15 Waiver**

The failure of either the employee or Council to enforce at any time any provision of this contract or any right under this contract or to exercise any election in this contract will in no way be considered to be a waiver of such provision, right or election and will not affect the validity of this contract.

16 Inconsistency and severance

- 16.1 Each provision of this contract will be read and construed independently of the other provisions so that if one or more are held to be invalid for any reason, then the remaining provisions will be held to be valid.
- 16.2 If a provision of this document is found to be void or unenforceable but would be valid if some part were deleted, the provision will apply with such modification as may be necessary to make it valid and effective.

17 Dispute resolution

- 17.1 In relation to any matter under this contract that may be in dispute, either the employee or Council may:
- (a) give written notice to each other of the particulars of any matter in dispute, and
 - (b) within 14 days of receiving a notice specified in subclause 17.1(a), a meeting will be convened between Council (along with any nominated representative of Council) and the employee (along with any nominated representative of the employee) in an attempt to resolve the dispute.
- 17.2 The employee and Council will attempt to resolve the dispute at the workplace level.
- 17.3 Upon failure to resolve the dispute at the workplace level, the employee and Council will:
- (a) refer the dispute to an independent mediator as agreed by the employee and Council, or otherwise as appointed by the Director-General,

- (b) agree to participate in any mediation process in good faith, with such mediation to operate in a manner as agreed by the employee and Council, and
- (c) acknowledge the right of either the employee or Council to appoint, in writing, another person to act on their behalf in relation to any mediation process.

17.4 The cost of the mediation service will be met by Council.

17.5 The employee and Council will each be responsible for meeting the cost of any advisor or nominated representative used by them.

18 Service of notices and communications

18.1 Any communication, including notices, relating to this contract will be in writing and served on the employee or Council at their last known residential or business address in accordance with subclause 18.2.

18.2 Any written communication including notices relating to this contract is taken to be served:

- (a) when delivered or served in person, immediately,
- (b) where served by express post at an address within New South Wales in the Express Post Network, on the next business day after it is posted,
- (c) where served by post otherwise in the ordinary course of postage, as set down in Australia Post's delivery standards, and
- (d) where sent by facsimile, within standard business hours otherwise on the next business day after it is sent.

19 Variations

19.1 Where this contract provides that its terms may be varied, that variation will be by agreement in writing signed by the employee and Council.
Note: See clauses 4.5, 6.1.3, 7.3, 8.6 and 19.2.

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- 19.2 Where the Director-General approves an amended or substitution standard form of contract for the employment of the general manager of a council, the provisions of this contract may be varied by agreement between the employee and Council to the extent that they are consistent with the provisions of that amended or substitution standard form of contract.

20 Other terms and conditions

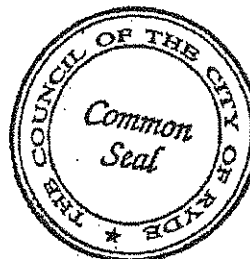
- 20.1 The employee and Council acknowledge that they have sought or had the opportunity to seek their own legal and financial advice prior to entering this contract.
- 20.2 In accordance with section 731 of the Act, nothing in this contract gives rise to any action, liability, claim or demand against the Minister, the Director-General or any person acting under their direction.

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21 Signed by the employee and Council


COUNCIL:

The Seal of
the Council of the City of Ryde
affixed by authority of a resolution of Council.



Signed by Council on October 14, 2009

in the presence of Michael Butterworth, Mayor and Roy Maggio, Deputy Mayor.

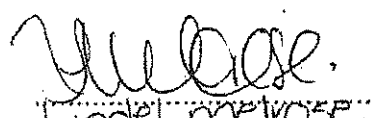

Michael Butterworth
Mayor


Roy Maggio
Deputy Mayor

THE EMPLOYEE:

Signed by the employee on 14. 10., 2009


John Neish


Lyndel McIntosh
Witness

Schedule A – Council policies


Note: This Schedule may be varied during the term of this contract in accordance with subclauses 4.5 and 19.1 of this contract.

This Schedule operates on and from

Monday 4 January 2010.

For the purposes of subclause 4.5 of this contract, the following policies apply to the employee:

All City of Ryde policies

Signed by Council: 

Michael Butterworth
Mayor

Date: *October 14 2009*

Signed by the employee: 

John Neish

Date: *14-10-2009*

Schedule B - Duties and functions

Note: This Schedule may be varied during the term of this contract in accordance with subclauses 6.1.3 and 19.1 of this contract.

This Schedule operates on and from

Monday 4 January 2010.

In addition to the duties and functions specified in clause 6 of this contract, the employee will carry out the following duties and functions as contained in the position description attached:

POSITION DESCRIPTION

Position Title: General Manager – Council of the City of Ryde

Contract: The contract for the General Manager's position operates for a period of five (5) years.

Primary Objectives:

- The day to day management of the City of Ryde and exercise of such functions of the Council as are delegated by Council to the General Manager.
- Responsible for translating the Council's vision into strategic and operational plans through the development of City of Ryde's Management Plan and transition to the new NSW local government integrated planning and reporting framework.
- Responsible for the development, implementation and achievement of City of Ryde's strategic direction.
- Works with the Executive Team to develop a clear strategy for the City of Ryde that meets the needs of residents by providing customer focused, high levels of service.
- Responsible for all staff and resources required to deliver City of Ryde's strategic objectives.
- Effectively communicates to Council staff and the community Council's economic, social and environmental objectives.

Relationships & Authority:

Reports to: Mayor

Accountable to: Council

In accordance with Section 335(1) of the Local Government Act, 1993 (NSW): The General Manager is responsible for the efficient and effective operation of the City of Ryde's organisation and for ensuring the implementation, without undue delay, of decisions of the Council.

Direct Reports:

Group Manager – Public Works
 Group Manager – Corporate Services
 Group Manager – Environment & Planning
 Group Manager – Community Life
 Executive Assistant
 General Counsel
 Corporate Planning Coordinator
 Manager Major Projects
 Manager Risk & Audit

Key relationships will be with other members of the Executive Team, with whom the General Manager is jointly responsible for the development of strategic direction and the planning, managing and monitoring of City of Ryde's performance against objectives laid

out in the Management Plan and in keeping with the requirements of the NSW Local Government Integrated Planning & Reporting Framework.

There is also a critical requirement to build strong, positive relationships with the Mayor and the Councillors who oversee the functioning of the Council.

Key Accountabilities:

Provide administrative assistance and advice which supports Council in responding to the needs of the Ryde City community and in meeting the requirements of the Local Government Act, 1993.

Oversee preparation of a budget which reflects the priorities of City of Ryde's Management Plan and progressively monitor expenditure to ensure levels are consistent with allocations for all principal activities.

Co-ordinate the development, implementation and evaluation of a Management Plan which addresses the identified needs of the City of Ryde.

Manage the transition to and ongoing development, implementation and evaluation of the City of Ryde's integrated planning and reporting framework.

Establish and maintain an organisational structure and operational procedures which:

- comply with the Local Government Act;
- promote efficient and effective service delivery;
- maintain effective internal and external communication; and,
- foster a culture of service among all staff.

Ensure the recruitment and ongoing performance management of able and experienced staff to meet Council's needs and ensure that development needs are identified and programs implemented in line with City of Ryde's strategic plan.

Maintain systematic and regular communication with key individuals and groups in government, business and the community, to promote and develop strategic alliances which enhance City of Ryde's image as a responsive and progressive organisation.

Co-ordinate periodic reviews of group structures and operations in terms of their efficiency and effectiveness in carrying out their designated functions.

Keep under review procedures used in budget preparation to ascertain any areas where greater participation by City of Ryde and the community is warranted.

Develop strategies which will help maintain City of Ryde's financial viability in the medium to long-term and provide a firm base for forward planning.

Implement City of Ryde's Equal Employment Opportunity Management Plan and Code of Conduct.

Cultivate a culture of community consultation and service within the ranks of City of Ryde's staff.

Occupational Health & Safety Responsibilities:

The General Manager is responsible, and will be held accountable, for ensuring that all of the City of Ryde's Occupational Health and Safety (OHS) policies (including Injury Management) and procedures are adhered to.

The responsibility of the General Manager is to provide safe workplaces and practices by ensuring that:

- The City of Ryde's OHS policies and procedures meet legislative requirements and are effectively communicated, implemented and adhered to;
- The City of Ryde's policies and programs are adhered to in respect of all plant and equipment;
- Budgets include funds for safety training, safety equipment and relevant immunisation programs;
- OHS training needs are identified and reviewed in accordance with method statements and in respect of new additions;
- New employees and staff transferred to new positions attend compulsory OHS induction programs;
- Incident and hazard investigation procedures are conducted and acted on accordingly;
- Following risk assessments, remedial action is taken to minimise or eliminate hazards;
- Incident statistics for the City of Ryde are reviewed on a monthly basis;
- Advice is provided to the General Manager on OHS issues and appropriate action is taken accordingly;
- OHS issues are discussed at regular team meetings;
- All staff are aware of Hazard Identification, Manual Handling and Hazardous Substances procedures in accordance with legislative requirements;
- Programs are in place for issue, use and maintenance of Personal Protective Equipment (PPE);
- Injured persons return to work as soon as practicable and that returning to work is normal practice and expectation.

Person Specification**Qualifications & Technical Competence:**

- Appropriate tertiary qualifications.
- Experience in management of senior groups in environments where teamwork is vital.
- Familiarity with relevant legislation.
- Demonstrated ability to deliver services in a highly competitive environment.
- Ability to manage a large, diverse and dispersed organisation through significant ongoing change.
- Understanding of Local Government issues.
- Demonstrated ability to promote and achieve best practice in organisational and business reform.
- Ability to provide integrated and accountable services.
- Strategic team player with strong customer focus.
- Comfortable in a delegation and monitor/mentor role.
- Ability to work with the community and build partnerships.
- Ability to articulate critical issues, be they economic, social or environmental.

Management Experience:

- Experience in building and nurturing a cohesive team and the ability to establish effective relationships that achieve tangible outcomes.
- The maturity and skills to provide leadership and support in building a customer focused organisation.
- An over-arching contribution to the management of strategic direction for an organisation.
- Ability to provide proactive advice with solutions to issues facing an organisation.
- The ability to translate strategic direction into operational realities.
- Politically astute; able to "hold their own" in a highly political arena.
- Able to plan and organise the achievement of multiple priorities without neglecting any.
- The ability to inspire and motivate teams by communicating the organisational objectives and establishing organisational targets and consultatively determining the mechanisms to achieve them.
- Awareness of social and environmental concerns and needs of the community.

Change Management:

- Proven success in championing and managing major change initiatives.
- Experience in process re-engineering to develop efficient quality processes with a strong customer focus.
- Demonstrated ability to champion continuous process improvement in relation to all areas of the business and with particular focus on procedures and standards.
- Promote and foster change strategies to ensure acceptance at an operational level.
- Understanding of the need for cultural change.

Commercial Acumen:

- Strong financial management skills.
- The ability to achieve and maintain alignment between strategic direction and operational initiatives and plans.
- Demonstrated ability to encourage innovation to enhance services and the financial position of an organisation.
- A sound understanding of the key business drivers in a commercial operation so as to competitively provide and deliver financially effective services.
- Constructively respond to the needs of all interested parties within commercial restraints and in line with City of Ryde's vision and values.

Communication:

- Agile and confident communicator able to think on their feet.
- Strong communication skills (both written and oral) and well developed interpersonal skills.
- Demonstrated ability to build a communications strategy, which facilitates integration and enlists the support of a dispersed and diverse team.
- Ability to communicate strategic direction to a wider team.
- Ability to focus on the essential issue and get his/her point across succinctly.

People Relations:

- A positive and enthusiastic motivator.
- Firm and confident manner: the ability to persuade and influence; demonstrate strength of purpose, yet value diversity of view and opinion.
- A high tolerance of political, community and customer interaction and issues.
- The ability to identify community needs, trends and priorities.
- The ability to deal and communicate effectively with elected members, businesses, regional organisations, local community interest groups and the general public.
- The ability to establish high level relationships to achieve outcomes.
- The ability to develop action plans and establish performance standards.

**NSW ICAC
EXHIBIT**Signed by Council: *Michael Butterworth*Michael Butterworth
MayorDate: October 14 2009Signed by the employee: *John Neish*

John Neish

Date: 14.10.2009

NSW ICAC EXHIBIT

Schedule C - Remuneration

Note: This Schedule may be varied during the term of this contract in accordance with subclauses 8.7 and 19.1 of this contract.

This Schedule operates on and from Monday 4 January 2010.

The Annual Total Remuneration Package is as follows: \$300,000.00.

The Total Remuneration Package is comprised of:

Base Salary	\$281,038.80
Cost of Motor Vehicle (Package Cost of Agreed Vehicle Choice - Toyota Prius, as per Council's Motor Vehicle Policy. Note cost may change if an alternative vehicle is selected at a future date)	\$4,500.00
Superannuation	\$14,461.20
ANNUAL REMUNERATION	\$300,000.00

The employee agrees and acknowledges that deductions under subclause 8.2 of this contract are made principally for the benefit of the employee and that the Council relies on that statement in providing the non-cash benefits requested by the employee.

In the case of an employee who is a member of a defined benefit division of the Local Government Superannuation Scheme (or equivalent) compulsory employer superannuation contributions are the long term or "notional" employer contribution, as advised by the Actuary for the Local Government Superannuation Scheme from time to time.

The employee's superable salary will be the amount of the total remuneration package less the amount of compulsory superannuation contributions.

**NSW ICAC
EXHIBIT**

Signed by Council:.....*Michael Butterworth*

Michael Butterworth
Mayor

Date:.....*October 14 2009.*

Signed by the employee:.....*J Neish*

John Neish

Date:.....*14.10.2009.*

City of Ryde

NSW ICAC
EXHIBIT

ABN 81 621 292 610

Civic Centre

1 Devlin Street Ryde

Locked Bag 2069

North Ryde NSW 1670

DX 8403 Ryde

cityofryde@ryde.nsw.gov.au

www.ryde.nsw.gov.au

TTY (02) 9952 8470

Facsimile (02) 9952 8070

Telephone (02) 9952 8222

John Neish
C/- Locked Bag 2069
NORTH RYDE NSW 1670

21 November 2011

Dear John

**Performance Review and SOORT Determination - Remuneration Progression
and Indexation**

1. Performance Review

As per recent correspondence from the Mayor's office dated 17 November 2011 regarding your recent performance review I am pleased to advise that a 2.5% increase to your Annual Total Remuneration Package (ATRP) will apply from the first full pay period on or after 1 July 2011.

Your revised ATRP will be reflected in a new Schedule C for the first full pay period on or after 1 July 2011 – 3 January 2012 and remains in force unless varied by agreement in writing between the parties, as follows:

Annual Total Remuneration Package

Salary	\$299,524.80
Car	\$ 4,500.00
Superannuation:	\$ 15,775.20
REMUNERATION	\$319,800.00

2. SOORT determination

Further as per correspondence from the Mayor's Office dated 17 November 2011, as per Clause 8.5 of your contract, the 2011 SOORT increase of 2.5% will be applied from your anniversary date of 4th January 2012 and not 1 October 2011 as previously advised.

Your new ATRP will be reflected in a new Schedule C as follows:

NSW ICAC
EXHIBITAnnual Total Remuneration Package

Salary	\$307,519.80
Car	\$4,500.00
Superannuation:	\$15,775.20
REMUNERATION	\$327,795.00

This schedule operates from 4 January 2012 and remains in force unless varied by agreement in writing between the parties.

To accept the above variation please sign in the space provided below and send a copy of the letter back to Human Resources as soon as possible.

Yours sincerely



Melissa Attia
Manager Human Resources

I accept the above variation to Schedule C of my Contract of Employment.



John Neish

Date 6 Jan 2012

City of Ryde

ABN 81 621 292 610

Civic Centre

1 Deviln Street Ryde

Locked Bag 2069

North Ryde NSW 1670

DX 8403 Ryde

cityofryde@ryde.nsw.gov.au

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Facsimile (02) 9952 8070

Telephone (02) 9952 8222

**NSW ICAC
EXHIBIT**

John Neish
C/- Locked Bag 2069
NORTH RYDE NSW 1670

3 November 2011

Dear John

SOORT Determination - Remuneration Progression and Indexation

As you are aware the remuneration for employees on individual contracts of employment is reviewed annually in line with the Statutory and Other Officers Remuneration Tribunal (SOORT) determination.

The 2011 SOORT has now been determined as 2.5% and will apply to eligible contract staff at the City of Ryde. This increase is effective from 1 October 2011 as per the SOORT determination effective date and you will receive your back payment shortly.

Your new ATRP will be reflected in a new Schedule C as follows:

Annual Total Remuneration Package

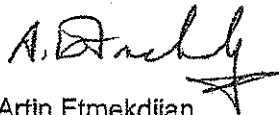
<i>Salary</i>	<i>\$299,524.80</i>
<i>Car</i>	<i>\$4,500.00</i>
<i>Superannuation:</i>	<i>\$15,775.20</i>
REMUNERATION	\$319,800.00

This schedule operates on 1 October 2011 and remains in force unless varied by agreement in writing between the parties.

To accept the above variation please sign in the space provided below and send a copy of the letter back to Human Resources as soon as possible.

John, thank you for your efforts over the past year and we look forward to your continued contribution to the City of Ryde in 2012.

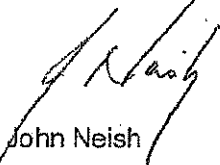
Yours sincerely



Artin Etmekdjian
Mayor

NSW ICAC
EXHIBIT

I accept the above variation to Schedule C of my Contract of Employment.



John Neish

Date 10/11/2011

**NSW ICAC
EXHIBIT**

John Neish
C/- Locked Bag 2069
NORTH RYDE NSW 1670

29 June 2012

Dear John,

**Contract Variation – Schedule C – Variation to Maximum
Superannuation Contribution Base**

As you may be aware in accordance with Section 9 of the Superannuation Guarantee (Administration) Act 1992, the maximum superannuation contributions base is indexed in line with AWOTE (Average Weekly Ordinary Time Earnings) each financial year. The maximum superannuation contribution base is used to determine the maximum limit on any individual employee's earnings base, for each quarter of any financial year.

For the 2012/2013 financial year the maximum contribution base has increased to \$45,750.00 per quarter or \$183,000.00 annually. This means the maximum amount of superannuation contributions required to be paid by City of Ryde on your behalf is \$16,470.00 per annum.

This increase has meant a change in the structure of your ATRP to ensure our obligations are met with respect to the superannuation contributions made on your behalf.

Your ATRP will be varied in a new Schedule C of your contract of employment as follows:

Annual Total Remuneration Package

This schedule operates from 1 July 2012 and remains in force unless varied by agreement in writing between the parties.

INDEX FOR ANNEXURE 3

NSW ICAC
EXHIBIT

Copies of performance reviews for the General Manager for the period of his current employment contract.

Key Date	Document
14 August 2012	Unsigned Mayoral Minute with attachments – for the Council Meeting on 14 August 2012
24 July 2012	Memorandum to Councillors Etmekdjian, O'Donnell and Pickering regarding the Meeting of the Review Panel to be held on 1 August 2012
14 February 2012	Report to Council regarding the General Manager's Project Milestones
8 November 2011	Report to Council on the General Manager's Performance Objectives 2011/12
	Proposed 'Degree of Difficulty' rating for the General Manager's Performance Objectives 2011-12
17 November 2011	Letter from the Mayor, Councillor Artin Etmekdjian regarding the General Manager's Performance Review
8 November 2011	Extract from Minutes of Council Meeting – Mayoral Minute - General Manager's Performance Review 2011
4 October 2011	Workshop Summary – General Manager's Performance Objectives 2011/12
30 August 2011	Performance Appraisal 2010-2011

K&L GATES NSW ICAC
EXHIBIT

Deed of Release and Separation

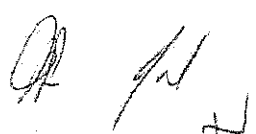
Private and Confidential

John Neish

and

Council of City of Ryde
ABN 81 621 292 610

K&L Gates
Sydney office
Ref: JZEN.BBEL.10058253



**NSW ICAC
EXHIBIT**

Deed of Release and Separation

Date This Deed of Release and Separation is made on 8 February 2013.

Parties

1. John Neish of [REDACTED] in the State of New South Wales (Mr Neish).
2. Council of City of Ryde ABN 81 621 292 610 of 1 Devlin Street, Ryde in the State of New South Wales (Ryde Council).

Background

- (A) Mr Neish commenced Employment with Ryde Council on 4 January 2010 as the General Manager of Ryde Council (**Employment**).
- (B) Mr Neish's Employment was subject to a Contract of Employment dated 13 October 2009 (**Contract of Employment**).
- (C) During Mr Neish's employment, Mr Neish alleges that he has made a number of public interest disclosures to the Independent Commission against Corruption (ICAC), Division of Local Government and the New South Wales Ombudsman.
- (D) ICAC commenced Supreme Court of New South Wales proceedings 2012/00302411 seeking an injunction to prevent Ryde Council from terminating Mr Neish's employment and contract of employment (**ICAC Supreme Court Proceedings**).
- (E) The ICAC commenced its investigations into Ryde Council numbered E12/1191 and E12/1627 with respect to the alleged public interest disclosures made by Mr Neish (**ICAC Investigations**).
- (F) Ryde Council provided the Supreme Court of New South Wales, on 28 September 2012, an undertaking that "it would not take any action that would terminate the employment of Mr John Neish" in the ICAC Supreme Court Proceedings (**Undertaking**).
- (G) Ryde Council alleges that Mr Neish, on or around 1 February 2013, breached Ryde Council's Code of Conduct (**Allegations**). Mr Neish does not admit the Allegations.
- (H) Mr Neish, on 7 February 2013, communicated his intention to voluntarily resign and terminate his Employment and Contract of Employment to the Mayor of Ryde Council (**Resignation**).
- (I) Mr Neish sought to enter into a written separation agreement with Ryde Council in accordance with clause 10.3.5 and 11.3 of his Contract of Employment.
- (J) The parties have agreed to resolve the Allegations, Employment and Resignation and matters referred to in the Background on the terms set out in this Deed.

Handwritten initials and a small circle at the bottom right of the page.

Operative Provisions

1. Definitions

- (a) **Allegations** means the matters recited in the Background clauses relating to the alleged breach by Mr Neish of Ryde Council's Code of Conduct and all Claims Mr Neish may have under common law or statute arising out of or in the course of the Employment;
- (b) **Additional Beneficiaries** means the current Mayor, the previous Mayor, each of the current Councillors, each of the previous Councillors, managers, officers and other employees of Ryde Council;
- (c) **Claim** means any or all actions, complaints, suits, claims and demands or any legal, administrative, governmental, arbitral or other proceedings or investigations save and except for any rights or claims relating to workers compensation;
- (d) **Contract of Employment** means the contract between Mr Neish and Ryde Council dated 13 October 2009 as recited and includes all contracts, agreements and arrangements whether express or implied which arise out of or in the course of the Employment.
- (e) **Confidential Information** means Confidential Information as defined in the Contract of Employment.
- (f) **Deed** means this document, including Background outlined, Schedule and as executed in counterpart;
- (g) **Employment** means Mr Neish's employment with Ryde Council;
- (h) **ICAC Supreme Court Proceedings** means the Supreme Court Proceedings number 2012/00302411;
- (i) **party/parties** means Mr Neish and Ryde Council jointly and severally; and
- (j) **Termination** means the termination of the Contract of Employment and the termination of the Employment with effect from 28 February 2013.

2. Interpretation

In this Deed, unless the context requires otherwise:

- (a) the singular includes the plural and vice versa;
- (b) a gender includes the other genders;
- (c) the headings are used for convenience only and do not affect the interpretation of this Deed;
- (d) the word "person" includes a natural person and any body or entity whether incorporated or not;

NSW ICAC
EXHIBIT

- (e) the words "in writing" or "written" include any communication sent by letter, facsimile transmission or email or any other form of communication capable of being read by the recipient; and
- (f) money amounts are stated in Australian currency unless otherwise specified.

3. Obligations of Ryde Council

3.1 Upon receipt of a duly executed Deed by Ryde Council from Mr Neish, Ryde Council will:

- (a) accept Mr Neish's resignation;
- (b) allow Mr Neish's Employment to continue until Termination as suggested by Mr Neish; and
- (c) allow Mr Neish to purchase from Ryde Council, the iPhone, iPad and laptop computer assigned to him.

3.2 On Termination, Ryde Council will:

- (a) subject to covenant 3.2(b) pay to Mr Neish his entitlements, otherwise due on termination of employment in accordance with the Contract of Employment and under statute including accumulated but untaken annual leave; and
- (b) subject to Mr Neish's compliance with this Deed, pay Mr Neish a termination payment in accordance with clauses 10.3.5 and 11.3 of the Contract of Employment.

4. Obligations of Mr Neish

4.1 On the execution of this Deed by Mr Neish, Mr Neish will:

- (a) continue to perform his duties as an employee and General Manager of Ryde Council under his Contract of Employment diligently and to the best of his ability until 28 February 2013;
- (b) continue to abide by Ryde Council's Code of Conduct and other policies and procedures until Termination;
- (c) accept a direction from Ryde Council to undertake a period of paid leave, between the period from 8 February 2013 until Termination, and during that period must not visit any premises belonging to Ryde Council, other than at Ryde Council's request;
- (d) facilitate and assist in the transition of his duties as General Manager to such person or persons to whom he may be directed during the balance of the Employment and for a reasonable period following Termination;
- (e) respond to any enquiry of made to him relating to the affairs of Ryde Council and must not unreasonably refuse to assist Ryde Council for a reasonable period following Termination; and
- (f) on request of Ryde Council, prepare a sworn affidavit or voluntarily give sworn testimony of the circumstances of the Resignation and Termination for the ICAC Supreme Court Proceedings or any other

Proceedings in a Court or Tribunal and in particular evidencing that in facilitating the Termination, the Council is not in breach of the Undertaking as disclosed in the Background of this Deed.

4.2 On Termination, Mr Neish will:

- (a) allow Ryde Council to deduct the amount of \$900 (being \$400 for the iPad, \$300 for the laptop computer and \$200 for the iPhone), from any payments made to Mr Neish, as consideration for the purchase from Ryde Council of the iPhone, laptop computer and iPad assigned to him;
- (b) continue to comply with all terms and conditions of the Contract of Employment that survive Termination, including clauses 13 and 14 of the Contract of Employment; and
- (c) return to Ryde Council all other property belonging to Ryde Council, including books, records, software, documents, letters, papers and other materials, in particular any Confidential Information, belonging to Ryde Council (whether electronic or in hard copy).

5. Release and Discharge

5.1 Save and except for Mr Neish's obligations under clauses 6(a), 6(b) and 6(c), Mr Neish releases and forever discharges Ryde Council and any Additional Beneficiaries from any claim which he may have, or but for this Deed would have had, against Ryde Council and any Additional Beneficiaries in respect of, or arising out of, or related to:

- (a) the Allegations;
- (b) the Employment;
- (c) the ICAC Supreme Court Proceedings;
- (d) the ICAC Investigations;
- (e) the Contract of Employment;
- (f) the Resignation; and
- (g) the Undertaking.

5.2 Mr Neish acknowledges that:

- (a) Ryde Council enters into this Deed on behalf of each of its Additional Beneficiaries;
- (b) notwithstanding any rule of law or equity to the contrary, the releases and discharges in clause 5.1 may be relied on or enforced or pleaded by each of the Additional Beneficiaries as a bar to any Claim which may be brought or made by or on Mr Neish's behalf in which respects this Deed operates as a deed poll; and
- (c) each of the Additional Beneficiaries is entitled to enforce the provisions of this Deed by legal proceedings in their own name notwithstanding that any such person may not have executed a copy of this Deed nor received a counterpart of this Deed.

**NSW ICAC
EXHIBIT****6. Confidentiality**

The terms and the existence of this Deed are confidential and a party must not disclose the terms or the existence of this Deed, either directly or indirectly, to any person without the prior written consent of the other party except:

- (a) to provide information to ICAC in its ICAC Investigations;
- (b) to provide information to the Division of Local Government or New South Wales Ombudsman;
- (c) as required by law;
- (d) to their professional advisers for the purpose of obtaining legal, accounting or tax advice;
- (e) for the purposes of enforcing this Deed.

7. Warranties

- 7.1 Mr Neish warrants that the Resignation was voluntary and the Termination was at Mr Neish's request and instigation and not that of Ryde Council or any of the Additional Beneficiaries.
- 7.2 Ryde Council warrants that it and its Additional Beneficiaries have not made any promise, representation or inducement or been party to any conduct material to seek the Resignation or Termination.
- 7.3 Ryde Council warrants that it and its Additional Beneficiaries has not made any promise, representation or inducement or been party to any conduct material to Mr Neish entering into this Deed other than as set out in this Deed.
- 7.4 Each party warrants that:
 - (a) it has entered into this Deed voluntarily;
 - (b) it has had the opportunity to obtain legal advice as to the significance and effect of executing this Deed;
 - (c) it understands the legal significance and effect of executing this Deed;
 - (d) the Background recitals are true; and
 - (e) each party is aware that the other party is relying upon these warranties.

8. Bar to Proceedings

This Deed may be pleaded as a full and complete defence by Ryde Council and any of its Additional Beneficiaries.

9. Non disparagement

The Parties must not:

- (a) do anything which materially damages or is likely to materially damage the reputation of any other Party to this Deed except as required by law;



NSW ICAC
EXHIBIT

- (b) make any promise, representation or statement about any other party to this Deed without that Party's prior written consent except as required by law;
- (c) make or publish any adverse, disparaging or other comments that may reasonably be expected to bring, or are intended to have the effect or bringing, any Party to this Deed into disrepute except as required by law; or
- (d) otherwise act in a manner which is or is likely to be materially detrimental to the business of any Party to this Deed except as required by law.

10. Media Communication

10.1 The parties agree to release a single joint media release on behalf of Ryde Council and a single internal email notifying Ryde Council employees of the Resignation and Termination. The terms of the joint media release and internal email will be in the form and terms as agreed between the parties.

10.2 The parties must otherwise comply with clause 6 of this Deed.

11. General

- (a) This Deed contains the entire understanding of the parties about, and supersedes all previous communications on, or agreements asserted or reached with respect to the matters referred to or contained in this Deed.
- (b) Each party acknowledges that, except as expressly stated in this Deed, it has not relied on any representation, warranty or undertaking of any kind made by or on behalf of another party in relation to any of the matters referred to or contained in this Deed.
- (c) Each party to this Deed must, and, where relevant, must procure that its directors, employees, servants and agents to, execute and deliver all deeds, documents and instruments and do all acts and things as are necessary to give full effect to all of the agreements, arrangements and transactions contemplated by this Deed.
- (d) Every clause and sub-clause of this Deed will, where the context permits, be severable from every other without invalidating or affecting the remaining provisions this Deed or the validity of that provision in any other jurisdiction.
- (e) A waiver by one party does not prejudice its right in respect of any subsequent breach of this Deed by the other party. A party does not waive its rights under this Deed because it grants an extension or other forbearance to the other party.
- (f) This Deed may consist of a number of counterparts and if so, the counterparts taken together constitute one and the same Deed.
- (g) This Deed can not be amended or varied except in writing signed by the parties.
- (h) A party can not assign or otherwise transfer the benefit of this Deed without the prior written consent of each other party.

Handwritten signatures and initials, including a large signature and the letter 'd'.

NSW ICAC
EXHIBIT

8

12. No adverse construction

This Deed is not to be construed to the disadvantage of a party because that party was responsible for its preparation.

13. Costs

Each party must pay its own legal costs of and incidental to the preparation and completion of this Deed.

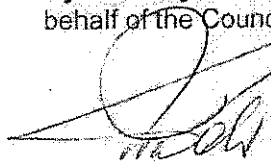
14. Governing Law

(a) This Deed is governed by and must be construed in accordance with the laws in force in the Commonwealth of Australia and the state of New South Wales.

(b) The parties submit to the exclusive jurisdiction of the courts of New South Wales and the Commonwealth of Australia in respect of all matters arising out of or relating to this Deed, its performance or subject matter.

Executed as a Deed

By the Mayor of Council of City of Ryde on)
behalf of the Council of City of Ryde:)



Signature of Mayor

Ivan Petch, Mayor



Signature of Witness

Linda Smith

Name (please print)

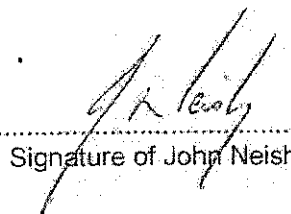
Signed, sealed and delivered including as a)
Deed Poll by Mr John Neish of)
in the presence of:)



Signature of Witness

Linda Smith

Name (please print)



Signature of John Neish

**NSW ICAC
EXHIBIT**

9 July 2012

The Mayor

Ryde City Council Civic Centre

1 Devlin Street

RYDE NSW 2112

CC/-

Mr John Neish

General Manager

Ryde City Council Civic Centre

1 Devlin Street

RYDE NSW 2112

Request for Extraordinary Meeting of the Council

Pursuant to s 366 of the *Local Government Act 1993*, we, the undersigned Councillors hereby request that you call an extraordinary general meeting of the council to be held as soon as practicable but in any event within 14 days after receipt of this request.

Pursuant to clause 241(1)(a) of the *Local Government (General) Regulation 2005*, we, the undersigned Councillors give notice that the business proposed to be transacted at the extraordinary meeting is to consider and, if thought fit, to pass, a motion in the following terms:

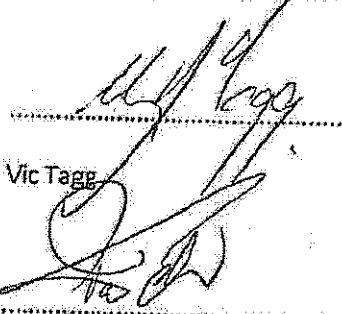
That:

1. The Council's contract with John Neish dated 14 October 2009 be terminated, with immediate effect, pursuant to clauses 10.3.5 and 11.3 and Schedule C thereof, and that John Neish be thereby removed from the position of general manager with immediate effect.
2. Pursuant to s 336(1) of the *Local Government Act 1993*, Danielle Dickson be appointed to act in the vacant position of general manager, pending appointment of a new general manager pursuant to s 334 of the Act.

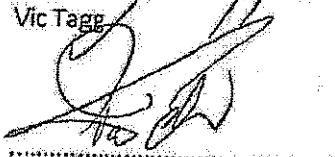
**NSW ICAC
EXHIBIT**

3. Pursuant to clause 11.4 of his contract with the Council dated 14 October 2009, John Neish's entitlements under clause 11.3 of that contract be calculated and paid to him forthwith.

All Councillors in support of this extraordinary meeting, are as follows; Cllr Ivan Petch, Cllr Michael Butterworth, Cllr Jeff Salvestro-Martin, Cllr Terry Perram, Cllr Vic Tagg, Cllr Justin Li



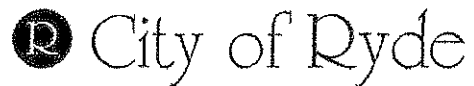
Vic Tagg



Ivan Petch

Received by Angela Colabrese 3:48 PM 9th July 2012.

J Neish



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NSW ICAC
EXHIBIT

MEMORANDUM

To: John Neish, General Manager, City of Ryde Council

From: Mayor Ivan Petch

Date: 5 February 2013

Subject: Disclosures made with respect to alleged unauthorised usage of City of Ryde Council's IT Resources and breaches of Code of Conduct

Dear Mr Neish,

As Mayor of City of Ryde Council, I have been made aware that a member of staff within the Information Systems, Corporate Services division, [REDACTED], has made an official complaint and disclosed information that a virus introduced to the IT Infrastructure at Ryde Council arose from the access, download and saving of pornographic material on a Ryde Council issued laptop WS0002192. I note that you are in possession and control of that laptop.

Accordingly, I direct you, as the General Manager, in accordance with clauses 6b and 12a of the Public Interest Disclosures Internal Reporting Policy and section 226 of the Local Government Act 1993, to ensure that no detrimental action is taken against [REDACTED] or any other employee of City of Ryde Council involved in the investigation of [REDACTED]'s disclosure and complaint.

I am currently seeking K&L Gates' advice as to whether this may also constitute a Public Interest Disclosure in accordance with the *Public Interest Disclosures Act 1994*.

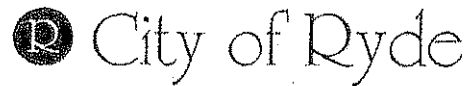
Yours faithfully

Ivan Petch

A handwritten signature in black ink, appearing to read 'Ivan Petch', written over a circular stamp.

Mayor

City of Ryde Council



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**NSW ICAC
EXHIBIT**

MEMORANDUM

To: General Manager
From: The Mayor – Cllr Ivan Petch
Date: 6th February 2013
Subject: Council issued computer

As you are aware, your Council issued laptop computer is the subject of investigation for possible illegal use.

As a result, it is now required for examination.

This letter is to inform you that I need the computer delivered to my office as a matter of urgency and by 4.30pm today so that it can be investigated by a forensic expert.

A handwritten signature in black ink, appearing to read 'Ivan Petch'.

Ivan Petch
Mayor



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**NSW ICAC
EXHIBIT**

To: Mayor Councillor Ivan Petch

From: General Manager John Neish

Date: 7th February 2013

PRIVATE AND CONFIDENTIAL

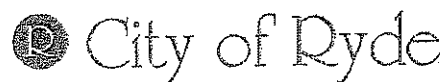
Thank you for taking the time to meet with me this morning. I confirm our discussions as follows:-

1. We both agree that the current working relationship between us is not conducive to the best interests of the City of Ryde and the new Council getting on with its job
2. That in accordance with the General Managers Contract of Employment the separation will be by written agreement between the employee and Council. The terms be agreed as follows:-
 - Council will provide 38 weeks termination payment under clause 10.3.5 by way of a termination payment and 11.3 of the contract.
 - The effective termination date of the contract be Friday 22nd February 2013
 - I will have access to any of the strategies, plans, codes, policies, frameworks etc developed by the City of Ryde and may copy them as required
 - We will agree and issue a joint media release and undertake to avoid any negative public comment about my departure
 - The current dispute between us ceases immediately and no further action be taken by either party
 - I have the ability to purchase (at an agreed price) my mobile phone, I pad and computer
 - You will advise me today of the acceptance of this undertaking which will come into effect today
 - We will mutually agree how and when this formal agreement is notified to Councillors

I trust that you agree that this is a true record of the agreement that we reached this morning.

Yours Sincerely

John Neish
John Neish



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**NSW ICAC
EXHIBIT**

To: John Neish
From: The Mayor – Cllr Ivan Petch
Date: 7th February 2013
Subject: Termination Agreement - CONFIDENTIAL

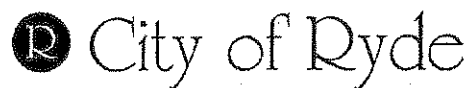
John,

I do not agree your Memorandum records a concluded "agreement" as you suggest.

I am prepared to recommend to Councillors and therefore to Council that your contract of employment be terminated under clause 10.3.5 by way of a termination payment under clause 11.3 of the contract subject to the following:

1. That you commit to a Deed of Separation and release approved by our lawyers containing fulsome Background recitals
2. That your employment will continue until 22nd February 2013, however you will not undertake duties nor attend Council premises between now and then. I have no objection to *categorising* the termination of your employment as your resignation
3. You will remain available until and including 22nd February 2013 to respond to any enquiry made of you relating to the affairs of Council and you will not unreasonably refuse to similarly assist Council for a reasonable period following 22nd February 2013
4. That it is an essential term of the Deed of Separation and Release that you covenant that the termination of your employment is at your request and instigation and not that of me or any other Councillor, past or present
5. That you be permitted to acquire your mobile phone and Ipad but not your laptop computer
6. That the Deed contains a release and covenants protecting
 - (a) confidentiality
 - (b) non-disparagement
 - (c) communications strategy (internally and externally)
7. That the counterparty to The Deed is the Council, but that Councillors (current and those Councillors who earlier served during your stewardship) be defined as Additional Beneficiaries who will also have the protection of a full release by you. In that regard the Deed will operate as a deed poll in Councillors favour
8. The Release will serve to release any or all causes of action, which but for the Deed, you assert you could maintain against all Councillors (as Additional Beneficiaries)
9. Council will not agree to provide you with its proprietary information

I have asked Bryan Belling of K and L Gates to commence drafting the Deed.



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**NSW ICAC
EXHIBIT**Memo

To: Cllr Artin Etmekdjian, Mayor

From: John Neish, General Manager

Date: 7 August 2012

Please find attached a chronology of events leading up to my Section 11 notification to ICAC regarding an improper attempt to influence my ability to carry out my obligations as the General Manager of the City of Ryde which I believe to have been orchestrated by a local developer Mr John Goubran allegedly acting in collusion with Cllr Petch and other Councillors.

This has been subject to several conversations between us as documented in the chronology of events since Wed 4th April 2012. I confirm my advice to you that this information was given to you as a protected interest disclosure in accordance with Section 10 of the Public Interest Disclosures Act 1994.

As we discussed, during the course of events outlined I was concerned of reprisals against me once I had refused to follow the directions of Mr Goubran who was allegedly acting on behalf of Cllr Petch. Recent events relating to the termination of my contract confirm this fear to be well founded.

I would like to take this opportunity to thank you for your professional support to date and the confidential way in which you have managed this situation.

Please do not hesitate to contact me should you require any further information or advice.

Regards



John Neish
General Manager

**Chronology of Events with Regards to Notification of Protected Disclosure
Referral to ICAC and the proposed Dismissal of the General Manager**

**NSW ICAC
EXHIBIT**

Date	Occurrence
Wed 4 th April 2012 <i>Meeting with Mayor</i>	Mayor asked if Tony Abboud had met with me and that he was going to soon. He was unspecific about the content. I advised I was meeting him on the 23 rd .
Friday 13 th April 2012 <i>Meeting with Tony Abboud</i>	Meeting with Tony Abboud at which I advised that the proposition he put to me on behalf of John Goubran was improper and was worthy of a notification to ICAC
Wednesday 18 th April 2012 <i>Meeting with Mayor</i>	<p>I advised the Mayor that I had met with Tony Abboud and found the proposition put to me to be improper and in breach of the Local Government Act and possibly ICAC guidelines. I advised Tony Abboud to inform Mr Goubran as such and that until I received a Council resolution to the contrary I will implement what I have been asked to do by Council resolutions on the Civic Precinct. I wished the matter to be dealt with as a confidential disclosure since I wanted to send a Section 11 notification to ICAC and am concerned about reprisals.</p> <p>I advised that I would seek a written confirmation from Tony Abboud. The mayor stated that I had done the right thing and mused as to how John Goubran could suggest that he would ensure that Cllr Petch was going to be the next Mayor.</p>
Thursday 19 th April 2012 <i>Phone call To Tony Abboud</i>	I advised that having spoken with the Mayor it was appropriate for me to report this matter to ICAC and asked Tony to provide me a copy of his written notes or an email confirming his conversation with John Goubran. He agreed to do so but said it may take some time
Wednesday 9 th May 2012 <i>Meeting with the Mayor</i>	I advised the Mayor that we had received a Notice of Motion from six Councillors re the formation of a Civic Precinct Redevelopment Ctte. which echoed the proposal put to me by Mr Goubran. I mentioned that this was further proof that this matter was improper and I was still seeking information from Tony Abboud as part of my disclosure.
Wed 16 th May 2012 <i>Phone call to Tony Abboud</i>	Following an earlier discussion with the Mayor I again spoke to Tony Abboud seeking his statement. He apologised for not sending it citing ill health and travel commitments. He had started it and will send it when completed.

NSW ICAC
EXHIBIT

Wednesday 26 th June 2012	I advised the mayor that I still hadn't received a notification from Tony Abboud since he was unwell and busy with work.
Meeting With the Mayor	The Mayor stated the disclosure was important and that he would phone Tony to ask him to verify events in writing so that the matter could be properly investigated.
Friday 29 th June 2012	Tony did not answer but sent text confirming that he would send the information on the following week.
Phone call Tony Abboud	
Wednesday 4 th July 2012	I advised that I was getting Tony Abboud's statement in writing before I could lodge the Public Information Disclosure and advise ICAC.
Meeting with Mayor	The mayor agreed that this should happen
Friday 6 th July 2012	Tony Abboud sent an email outlining his version of events which I was used as evidence for a public interest disclosure and section 11 notification to ICAC
Email from Tony Abboud	
9 th July 2012	A request for an extraordinary meeting of Council for the purposes of dismissing the General Manager lodged by Councillors Petch and Tagg.
Wednesday 11 th July 2012	Section 11 notification sent to ICAC
Monday 23 rd July 2012	Council meeting held the notice of Motion to dismiss the General Manager was carried and a rescission motion lodged to be considered on the 14 th August 2012.

John Neish

NSW ICAC
EXHIBIT

From: Tony Abboud [tonyabboud@snowdenparkes.com.au]
Sent: Friday, 6 July 2012 3:28 PM
To: John Neish
Subject: Summary of events
Attachments: Notes on approach from John Goubran re Ryde Council.doc

Hi John

Please find attached the summary of events as I recall them, that led to our meeting on Friday 13th April 2012

Please let me know if you require any further information

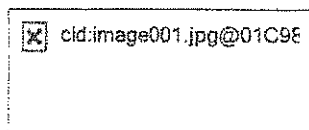
Regards,

Tony Abboud

Snowden Parkes Real Estate Agents
14 Church Street
RYDE NSW 2112

Ph: 02 9808 2944
Fax: 02 9807 2561
M: 0418 225 435

www.snowdenparkes.com.au



<http://www.facebook.com/pages/Snowden-Parkes-Real-Estate/319125272773>
<http://twitter.com/1tonyabboud>

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10/07/2012

**snowden
parkes**

**NSW ICAC
EXHIBIT**



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10/07/2012

On Friday 30th March 2012, I received a phone message to call John Goubran. When I returned his call, he said that he had left multiple messages and accused me of not returning his calls. I indicated to him that I had not received those messages and this was the first one that I was aware of and thus was now returning the call.

He indicated that there were a few things that he wanted to discuss with me and asked that he preferred that I meet him. We agreed that we would meet at his office in College Street Gladesville on Tuesday 3rd April 2012 at 8am.

I was aware that he had for some time been trying to get a DA approval from Ryde Council for a residential development at Eastwood and that he wasn't happy with the progress. I assumed that this was the purpose of the meeting.

In fact, at the beginning of the meeting, this is what we discussed. He indicated to me that he was upset with Council because after months of negotiations, they had referred his application to an external assessor and he felt he had to start all over again.

After discussing his project, the discussion went on to the Civic Centre redevelopment. I shared with him my point of view about favouring the project. I told him that I had spoken at the Council meeting on Tuesday 27th March 2012 in favour of the project proceeding. I also told him that I was disgusted at the treatment of the General Manager, John Neish at that meeting, in particular by the Councillors objecting to the proposed development. I said to him that it appeared that most of the meeting was spent by John Neish defending himself and justifying every action that he has taken.

It was at this point that he said to me that the real reason that he wanted to see me was that he had been asked to speak to me as to whether I was prepared to "broker a deal" between the 6 Councillors saying Yes to the proposed development and those 6 saying NO.

I was a little taken aback as to why I would be asked to do such a thing. He indicated that I would have the ability with both sides to do this. Somewhere during the discussion he mentioned that he had received a call from "Macquarie Street" asking him to do this.

My response was that I was honoured that people out there thought I had that sought of influence. I then said to him that it really depended on the "deal". What if I didn't agree with the proposed deal?

He said that he would let me know what the deal was, and that he wanted me to present this "deal" in the first instance to the General Manager, John Neish. He wanted me to convince John to make it happen. He also implied that this deal would ensure that John's position as General Manager was secure, particularly after the next Council election. I was unsure how he could do this.

Later that day John called me to let me know what the deal was. In summary it was as follows:

- A committee or review board would be formed.
- John Neish was to prepare the terms of reference for this committee.
- It was to be made of 4 Councillors, two of which were to be Roy Maggio and Sarkis Yedelian plus two others but not Ivan Petch

- It was to also have on the committee the Manager of Planning, Domenic Johnson and the Community Manager (Danielle??)
- It was also to have 4 members of the public from the groups opposing the Civic redevelopment.
- The findings of the committee would be delivered after the council elections in September
- The findings would be accepted by the incoming Council
- The decision will be for the development to go ahead
- There is to be a strong push to expedite all DA applications in Council
- That I (Tony Abboud) would slow down on my attacks on Ivan Petch
- That John Goubran would deliver 'preferences' either way. Deal on Preferences. "phone call from Macquarie Street"

He indicated that this deal was a "way out for the Lib's" and a "face saving for both camps" and that it would ensure John Neish's job and that the development would go ahead but only after the Local Council elections in September.

I suggested to him that I thought that the committee looked like to me that it was stacked in favour of the NO camp. He then said that John Neish can choose who he wants on the committee.

It was obvious to me at this stage that John Goubran was speaking on behalf of and representing Ivan Petch, Jeff Salvestro Martin and Justin Li. He implied that Terry Perram and Vic Tagg were not party to this deal.

I then called John Neish and asked if I could meet with him. Because of Easter later that week we agreed to meet after Easter on Friday 13th April. Later that week I let John Goubran know that I was meeting with John Neish after Easter to discuss the proposal.

On Friday morning 13th April, John Goubran called me to confirm that I was meeting with John Neish that later that morning. He also wanted to modify parts of the deal. He said that they now wanted the other two councillors on the committee to be Jeff Salvestro Martin and Ivan Petch. I said to him that he originally told me that Ivan Petch didn't want to be on the committee. John said that Ivan had changed his mind and now wanted to be on the committee. The other change was that they wanted the 4 members of the public on the committee to be me (Tony Abboud), Richard Green, George Papallo and Phillip Peak. He also said to me that Artin and the Liberals were in favour of the deal. I expressed my surprise at this comment because I found it hard to believe. If this was true then it would have been a total turn around from what had happened to date in Council.

I then met with John Neish at 11am that morning and disclosed the 'deal' and the whole scenario as to how I was approached.

John's response was firstly one of amusement. He wasn't sure what they meant about him setting the 'terms of reference' for this proposed committee. He also indicated to me that he was simply acting on a Council Resolution that required him to do the job he was doing regarding the Civic redevelopment and that the current resolution required him to complete this task by August this year.

John indicated that if Council wanted to pass a new resolution with respect the Civic redevelopment then he would be obliged to act on that new resolution as part of his role as General Manager. He also

**NSW ICAC
EXHIBIT**

commented that their requirement as part of this deal, that DA's currently in Council be expedited, is already happening as a result of improvements implemented in Council processes.

John was concerned by the comments made to me about his position in Council and the future of his job.

I left the meeting on the understanding that if this 'deal' was to proceed, it was a matter for the 12 councillors, in the form of a new Council resolution rather than anything that John Neish could do.

The following week, John Goubran called me to ask what happened at the meeting with John Neish.

I basically passed on John Neish's comments that if the Councillors wanted to change his instructions then it would have to be done in the form of a Council Resolution.

Tony Abboud

6th July 2012.

**NSW ICAC
EXHIBIT****PRIVATE AND CONFIDENTIAL**

Dea [REDACTED]

Writing to you out of courtesy and in confidence to give you a heads up and forewarning.

We're aware Mr Neish has gained employment with your firm.

- * You need to be aware that numerous members of the staff are now aware that Council's IT department has detected extensive access of pornographic web sites by the former General Manager. The case maybe that a number of councillors are now also privy to that information and it may give them cause to argue against engagement of your firm. Many of those people hold the view this disclosure prompted his resignation in a bid to prevent the same becoming coming knowledge. Given the widespread knowledge it is inevitable the media will be informed.

Disclosure of the latter in the media may have a negative reflection on your firm considering the nature of your business. No doubt public disclosure will mean councils all around Sydney and the state will become aware of the same

- * I am not personally aware of the extent of the access to pornographic websites, but I am led to believe it is very extensive.

- * Not sure if Mr Neish disclosed the same to you when he became aware, but it is considered that you should be aware.

It may be worthwhile if you raise the same directly with him and take the appropriate steps to protect the integrity of your business as you deem appropriate.

Kind Regards