

RE: Ryde Civic Centre

From: Warwick Cooper
To: Philip Peake <ph
Cc: I, Ivan Petch <ivanp@ryde.nsw.gov.au>
Date: Sat, 16 Jun 2012 10:57:35 +1000

G'day Phil

Thanks for that.

As we discussed last night, in case an injunction is not an option, I've prepared a suggested draft leaflet on the basis that no thought immutable or word or phrase sacrosanct. It will need to be

Sourced/organisation

Legalised

Printed

And in mail boxes (or preferably under doors) Monday/Tuesday.

Please feel free to broadcast as you wish to test the waters.

I'm copying Ivan,

Kind regards

Warwick

RYDE IS BEING RORTED. HELP NOW TO SAVE OUR CITY'S HEART

Fellow Ryde ratepayers!

Ryde City Council is about to give away our priceless Civic Centre land and put us up to \$100 million in debt.

In a shonky deal with Lend Lease that the banks won't touch.

If that deal falls over, our city will be bankrupt and we'll be saddled with rates rises of up to 30 per cent.

Under the deal, the council will give Lend Lease 60 per cent of our Civic Centre land, borrow \$35 million for Lend Lease, pay \$15 million for utilities and \$7 million for... and make a raft of commitments for as much as 130 per cent of council's assets.

NSW ICAC EXHIBIT

For that, Lend Lease gets two 26-story residential blocks with 630 apartments, plus shops and commercial areas. We get a nicer office for the Mayor, some change rooms and 50 extra seats in an auditorium. We lose a large tract of our invaluable civic land and gain an aircraft hazard.

Suspiciously, the council's general manager is fast-tracking the deal behind closed doors just weeks before council elections and the Mayor is ramming it through council by using his casting vote in a breach of convention. Equally suspiciously, the mayor, general manager and their followers have rejected the alternative of a \$25 million refurbishment of the current civic centre in which council and we ratepayers retain the land.

And they're not listening. To the six councillors totally opposed, to the 3,000 residents who so far have put their complaints in writing, or to the tsunami now building from the overwhelming majority of the Ryde ratepayers angered at our loss of equity and council's lack of consultation and transparency.

The secretive deal is almost done. Council at its next meeting intends to give the general manager the power to unilaterally negotiate an umbrella agreement with Lend Lease BEFORE apartment numbers, height levels, traffic solutions, staff relocations and the like have been negotiated.

But we can stop this lunacy. If we act together. Now. We suggest three simple steps

1. Email Ryde Council on cityofryde@ryde.nsw.gov.au and tell them to stop the deal and keep their hands of our land
2. Attend the council meeting on at 7.30pm on Tuesday 26 June. Large numbers of us attending, insisting on our right to speak to the council or using people power to peacefully protest under the media's gaze cover may sway opinions
3. Help us raise the \$50,000 needed for a Supreme Court challenge to what our lawyers have indicated is an inequitable and highly questionable deal. Please donate now whatever you can to (bank account details). We heed an injunction from the court in the next few days to at the very least stay the council's decision until after the coming local government elections.

Name	email	phone
Name	email	phone
Name	email	phone

From: Philip Peake [mailto:peake@ryde.nsw.gov.au]

Sent: Friday, 15 June 2012 9:41 PM

To:

Cc:

Subject: Ryde Civic Centre

Hi,
Warwick,
Please find attached info from Rex.

NSW ICAC EXHIBIT

Thanks Phil, for sending through the email addresses.

Dear All,

Attached is the full text of the address I made on Tuesday; I had omitted some sections to ensure I made the 3 minutes and to make sure I did not lose my key points.

The source document from which I obtained the financial information is the Annual Report from the following website:

http://www.ryde.nsw.gov.au/_Documents/Annual+Reports/AR11+Interactive.pdf

I don't know sufficient information to prepare the timeline for the Civic Precinct, as I only found out about it in Feb this year – so much for the community involvement by the Council!

I hope that this is helpful. Please let me know if you need anything else.

Regards

Rex

Document1

From: Warwick Cooper
To: Ivan Petch <ivanp@ryde.nsw.gov.au>, Philip Peake
Date: Sun, 17 Jun 2012 19:11:47 +1000
Attachments: Doc1.docx (11.19 KB)

**NSW ICAC
EXHIBIT****STEPS**

1. Confirm leaflet for printing
 2. Legal leaflet – am Mon/Ivan/W
 3. Print leaflet
 4. Distribute – R comm. Alliance – urgent... footsoldiers
 5. Legal letter to GM – copies for use with media
 6. Results of Salvestro-Martin investigation into PPP
 7. 7. Media conference – possibly 2pm Thursday
- Media advice, media statement plus legal letter with cover from the six councillors

MAHONY TAREN
LAWYERS

A TAREN LEGAL GROUP FIRM

NSW ICAC
EXHIBIT

SENDER TO KEEP
029101947090

SENDER TO KEEP
029101948097

COPY

Our Ref: JFM:kjh:63367

22 June 2012

The Mayor
City of Ryde
Civic Centre
1 Devlin Street
RYDE NSW 2113

Dear Mr Mayor

RYDE CIVIC PRECINCT REDEVELOPMENT

We act on behalf of an Association of concerned ratepayers in the city of Ryde (**Association**).

We have reviewed in detail, documentation relating to the Ryde Civic Precinct Redevelopment (**Redevelopment**).

Facts

We are instructed as follows:

1. On 12 June 2012 Council resolved as follows:
 - (a) That no tender be accepted from the tenders received by Council with respect to the City of Ryde Precinct Redevelopment Tender; and
 - (b) That despite (a) above, Council enter into negotiations with Lend Lease Development Pty Limited (**Lend Lease**) with a view to entering into a Project Delivery Agreement for the Redevelopment, preferably by August 2012; and
 - (c) That Council enter into a 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 (copy **enclosed** herewith); and
 - (d) That Council delegates to the General Manager the authority to finalise and execute the Project Delivery Agreement with Lend Lease, once he has approved the final form of the documentation and is reasonably satisfied the documentation is substantially consistent with or more favourable to Council than the aforementioned Commercial and Risk Principles; and

TAREN LEGAL GROUP PTY LTD T/A MAHONY TAREN LAWYERS ABN 15 149 513 262
TELEPHONE: 02 9849 6600 FACSIMILE: 02 8850 4761
PO BOX 8318 BHBC, NSW 2153

LEVEL 4 NORWEST CENTRAL, 12 CENTURY CIRCUIT, BAULKHAM HILLS, NSW, 2153
documents\63367\120620-01.doc law@mtlawyers.com.au www.mahonytarenlawyers.com.au

(e) That Council authorises the General Manager to undertake a tender process, for a \$35 million loan to be taken out by Council, over a six year period, where the principal and interest is guaranteed by Lend Lease and the funding is provided at no cost to Council.

2. Following the passing of the abovementioned Resolutions, a Rescission Motion was lodged with Council for determination on 26 June 2012.
3. The Resolutions of 12 June 2012 were carried on a 6-5 majority. However, based on previous voting patterns on this matter, it is reasonable to assume that had a particular Councillor not been absent from the Council meeting for that vote, then the vote would have been deadlocked at 6 votes for and 6 votes against. Again, based on previous voting patterns, it is also reasonable to assume that in that circumstance, the Resolution would have been passed on the Mayor's casting vote.
4. The effect of the aforesaid Resolutions is not less than the following:
 - (a) Council will borrow the sum of \$35 million, to be secured against Council owned property. Borrowed monies will be paid to Lend Lease, which will guarantee repayment of same together with interest; and
 - (b) Council will pay approximately \$21.9 million with respect to a project viability payment and utilities for the Redevelopment;
 - (c) Council will be responsible for cost overruns by Lend Lease,;
 - (d) Council will bear the cost and inconvenience of relocating its offices and facilities;
 - (e) Council will **gift** to Lend Lease for its commercial development and profit, approximately 70% of the current Council owned precinct site;
 - (f) Council will retain only 30% of the current land owned by it on the precinct site;
 - (g) Lend Lease will construct at its cost, new Council offices, community spaces and facilities (**Civic Developments**), although Council will bear or share the risk in relation to cost escalation, native title claims, latent conditions and other landowner risks;
 - (h) Guarantees for and on behalf of Lend Lease will be provided by its parent company with only 7.5% of the estimated construction cost of the Civic Developments (inclusive of defect obligations), being provided through a Bank Guarantee; and
 - (i) The alternatives examined by Council for the Redevelopment were:
 - (i) do nothing;
 - (ii) refurbishment option;
 - (iii) Lend Lease redevelopment

Council however did not consider a possible redevelopment option carried out by Council itself, in circumstances where Council retains all of its current operational and community land.

5. Whilst the Redevelopment has been under discussion in one form or another from time to time since October 2011, there has been no proper or adequate Community Consultation in relation to the Redevelopment.
6. Once it became apparent to the Ryde Community that the Redevelopment was about to occur, almost 3000 signatures from residents voting against the Redevelopment, were received in a very short period of time.
7. It is reasonable to assume that following the September 2012 election of Councillors for Ryde City Council, the majority view on Council will be **not** to proceed with the Redevelopment, in the same terms as are set out in the Resolutions of 12 June 2012.
8. There has been no proper or adequate traffic study relating to the Redevelopment, including in particular the proposal by Lend Lease to construct over 630 residential apartments on what was previously Council owned land.

Concerns

The Association has a number of concerns including legal, economic and community concerns.

Without limitation, those concerns include the following:

1. The Resolution to delegate to the General Manager the authority to enter into the Project Development Agreement for the Redevelopment, is prohibited by Subsection 377(1) of the Local Government Act. That section provides that a Council may **not** by resolution delegate to its General Manager, certain functions including:
 - (a) The borrowing of money;
 - (b) The purchase, sale, exchange or surrender of any land or other property;
 - (c) The voting of money for expenditure on its works, services or operations;
 - (d) The acceptance of tenders which are required for works under the Local Government Act.
2. In accordance with the provisions of the Local Government Act 1993 and the Regulations made thereunder, a Council is prohibited from entering into significant contracts or undertakings in the four weeks preceding an ordinary election of Council. The Resolution calls for the General Manager to enter into the clearly significant contract or undertaking with Lend Lease, quite possibly within the one month period prior to 8 September 2012 election. Therefore, any entry into that contract by the General Manager would place the Council in breach of the Local Government Act and its Regulations.
3. A large number of consultants, advisers or staff to be employed in or on the Redevelopment, have pre-existing relationships with the General Manager of Ryde City Council. That situation represents a contravention of Independent Commission Against Corruption (ICAC) guidelines.

4. In contravention of Department of Local Government Guidelines, the Redevelopment meets all the criteria of a Private Public Partnership, yet the proposal has been deemed a Joint Venture by the General Manager of Council, thereby avoiding the additional scrutiny which would be afforded by a Director General (third party) Review. ICAC's guidelines recognise that joint ventures are in any case private public partnerships, deserving the additional scrutiny of a Director General Review.
5. The commercial risk to the Council, of the Redevelopment, when compared to the expected gain to Council is unacceptable and unrealistic.
6. The magnitude of the Redevelopment and the long term and enduring effects on the Council's financial position, as well as the Community's asset position, are so significant as to warrant substantial further debate and consultation. There has been no or no proper Community consultation and much more extensive and detailed Community consultation is required.
7. In any case, such important and far reaching matters, should not be decided on the casting vote of a Mayor after a 6/6 deadlock of Councillors.
8. The Development guidelines indicate a conflict for Council, as Commercial Partner, in that amongst other things, it provides beneficial and more favourable FSR's to Lend Lease, than would otherwise be appropriate or accessible to other developments within the City of Ryde.
9. The whole tender proposal for such a significant construction project as the Redevelopment, must necessarily now be reviewed, due to the unusually low number of tenderers.
10. No or no proper traffic study of the effects of the Redevelopment has been carried out, for what is already an overly congested part of Ryde City.
11. The rush by Council to bring about the execution of contract documents, (specifically prior to the next Council elections in September 2012), leaves open an assumption of political bias in the decision to proceed at this time with the Redevelopment. As such, serious questions of probity and transparency of the whole process must arise.
12. The decision to gift to a commercial entity a large part of Community owned land, for no proper return and for no necessary or compelling reason, must be determined by a Referendum of the residents of City of Ryde, rather than upon a Mayor's casting vote.
13. The Community land is being put at unnecessary risk due to the right of Lend Lease to require Council to mortgage the precinct land, to support borrowings made by Lend Lease to fund its construction of the Redevelopment. In particular, in the event that Lend Lease defaults on its construction loan, then its lender can seize possession the Community's land pursuant to the mortgage and sell it to a third party, without any

benefit to Council, which will also then also have lost ownership of the Community's land.

14. Prior to entry into the Redevelopment, Council must obtain a clearance from its insurers with respect to the continuation of cover for Council as a whole and individually for Councillors, due to the significant commercial risk involved to Council and the potential for surcharges to be levied against Councillors personally.

Action Required

The Association now calls on Council to:

- (a) Vote in favour of the Rescission Motion on 26 June 2012 and whether or not such Rescission Motion is successful,
- (b) Postpone all further action, discussion or negotiation on the Redevelopment, until after the September 2012 Council elections.

Would you please confirm by **5.00pm this coming Monday, 25 June 2012**, that the Mayor will recommend and vote in favour of the above action being taken by Council at its meeting on 26 June 2012, failing which we will take further instructions from our client, as to amongst other things, seeking Injunctive Relief from the Supreme Court of NSW.

Yours faithfully

Mahony Taren Lawyers



John Mahony

Solicitor

Email: john@mtlawyers.com.au

Copy to:

*The General Manager
City of Ryde Council*

Roy Maggio

Gabrielle O'Donnell

Ivan Petch

Vic Tagg

Michael Butterworth

Artin Etmekdjian

Justin Li

Terry Perram

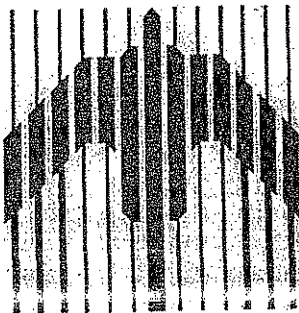
Nicole Campbell

Bill Pickering

Jeff Salvestro-Martin

Sarkis Yedelian OAM

Ross Woodward



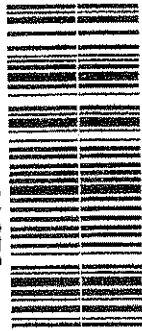
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For the urgent
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PO Box number †
or street address

Suburb
or town

The Mayor

City of Ryde

Civic Centre

1 Devlin Street

RYDE NSW 2113

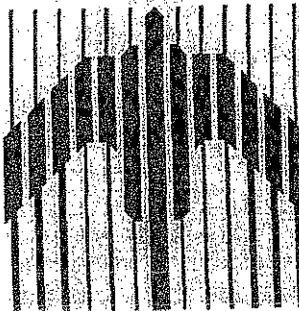
† PO Box addresses help ensure early morning delivery

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To: Company name _____

For the urgent
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P.O. Box number †
 or street address _____

Suburb
 or town _____

The General Manager

City of Ryde

Civic Centre

1 Devlin Street

RYDE NSW 2113

† P.O. Box addresses help ensure early morning delivery

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* Over specified routes. Conditions apply—see over for details

NSW ICAC
 EXHIBIT



Please see enclosed letter responding to your letter of 22 June 2012 to the Mayor of the Council of the City of Ryde.

<<Letter to Mahony Taren Lawyers dated 25.06.2012.pdf>>

**NSW ICAC
EXHIBIT**

Yours faithfully

Gary Best

Gary Best, Partner

Clayton Utz


Level 15, 1 Bligh Street, Sydney NSW 2000 Australia | D +61 2 9353 4177

| F +61 2 8220 6700 | M 0407 457 879 | gbest@claytonutz.com

www.claytonutz.com <file:///\\www.claytonutz.com>

P Please consider the environment before printing this e-mail

This email is confidential. If received in error, please delete it from your system.



From: Ivan Petch [mailto:ivanp@ryde.nsw.gov.au]
Sent: Monday, 25 June 2012 9:07 PM
To: Warwick Cooper
Subject: Fwd: Ryde Civic Precinct Redevelopment

Sent from my iPhone

Begin forwarded message:

From: "John Mahony" <john@mtlawyers.com.au>
To: "Ivan Petch" <ivanp@ryde.nsw.gov.au>
Subject: FW: Ryde Civic Precinct Redevelopment

Ivan,

Please see attached. Can you give me an estimate of the number of people who the Association that you have formed, represent

Also, I do need funds in trust of at least \$2500 asap and will need you to sign a costs agreement for me on behalf of the Association. Both these things will be for your protection.

Regards,

John Mahony

From: Best, Gary [mailto:GBest@claytonutz.com]
Sent: Monday, June 25, 2012 5:10 PM
To: John Mahony
Cc: Taylor, Anne
Subject: Ryde Civic Precinct Redevelopment

Dear Mr Mahony

CLAYTON UTZ

Sydney

Melbourne

Brisbane

Perth

Canberra

Darwin

Hong Kong

Confidential

Email

25 June 2012

Mr John Mahony
Mahony Taren Lawyers
Level 4
Norwest Central
12 Century Circuit
BAULKHAM HILLS NSW 2153

Your ref JFM:kjh:63367

Our ref 15266/15661/80126762

Dear Sir

Ryde Civic Precinct Redevelopment

We refer to your letter of 22 June 2012 to the Mayor of the Council of the City of Ryde.

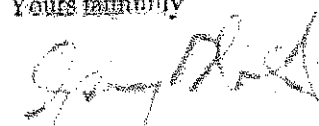
We are instructed to request that you urgently provide details of the clients for whom you are acting.

Please let us have a full list of all persons on behalf of whom your letter is written.

We are instructed that your letter contains information, or refers to information, which is confidential.

We note that the release by any person of confidential information may amount to a breach of the Local Government Act.

Yours faithfully



Gary Best, Partner
+61 2 9353 4177
gbest@claytonutz.com

Anne Taylor, Special Counsel
+61 2 9353 4629
ataylor@claytonutz.com

Kate Huber

From: John Mahony
Sent: Tuesday, 26 June 2012 12:40 PM
To: 'gbest@claytonutz.com'
Cc: John Mahony
Subject: Ryde Civic Precinct Redevelopment
Attachments: Ltr to Clayton Utz.pdf

Dear Mr Best,

Please refer to our **attached** letter.

Yours faithfully

John Mahony

Director
Mahony Taren Lawyers
Ph: 02 9849 6600
Fx: 02 8850 4761
E: john@mtlawyers.com.au
W: www.mahonytarenlawyers.com.au

Level 4, 12 Century Circuit
Norwest Business Park
Baulkham Hills NSW 2153

MAHONY TAREN LAWYERS: BEGIN WITH THE END IN MIND

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MAHONY TAREN
LAWYERS
A TAREN LEGAL GROUP FIRM

NSW ICAC¹²²⁵
EXHIBIT

Our Ref: JFM:kjh:63367

26 June 2012

Clayton Utz
Level 15
1 Bligh Street
SYDNEY NSW 2000

Attention: Gary Best

By email: gbest@claytonutz.com

Dear Mr Best

RYDE CIVIC PRECINCT REDEVELOPMENT

We refer to your letter of 25 June 2012.

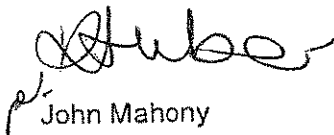
We act on behalf of the Ryde Concerned Citizens Association, which is an unincorporated association of many concerned residents of Ryde City.

The individual identity of each member of that Association is currently of no concern to your client, nor is your client entitled to such information at the present time.

In the event that the matter does proceed to litigation, then it is intended that the unincorporated Association will incorporate for that purpose.

In the meantime, with all due respect, we would have thought that your client would have been better served in responding to the very serious concerns held by our client Association and its members in relation to the proposed redevelopment.

Yours faithfully
Mahony Taren Lawyers


John Mahony
Solicitor
Email: john@mtlawyers.com.au

TAREN LEGAL GROUP PTY LTD T/A MAHONY TAREN LAWYERS ABN 15 149 513 262
TELEPHONE: 02 9849 6600 FACSIMILE: 02 8850 4761
PO BOX 8318 BHBC, NSW 2153

LEVEL 4 NORWEST CENTRAL, 12 CENTURY CIRCUIT, BAULKHAM HILLS, NSW, 2153
I:\documents\63367\Ltr to Clayton Utz.docx
law@mtlawyers.com.au www.mahonytarenlawyers.com.au

Fwd: Ryde Civic Precinct Redevelopment

From: "Ivan Petch"
To: john@mtlawyers.com.au
Date: Tue, 26 Jun 2012 09:18:32 +1000
Attachments: Letter to Mahony Taren Lawyers dated 25.06.2012.pdf (149 kB); ATT1756896.htm (151 bytes)

Hi John

I was at a meeting last night and immediately sent your email to Warwick Cooper who has sent me his reply.

Those who attended the initial meeting with you were

Warwick & Beth Cooper [REDACTED]

Philip Peake [REDACTED]

Rex Honey [REDACTED]

In turn Philip Peake represents over 3000 residents who oppose the development.

I will also discuss this with our 3rd party regarding the funding you require.

P.S. Alan Jones mentioned the Ryde council meeting on air this morning.

Regards

Ivan Petch

Sent from my iPhone

Begin forwarded message:

From: "Warwick Cooper"
To: "Ivan Petch" <ivanp@ryde.nsw.gov.au>
Cc: "Philip Peake" <[REDACTED]>, "Salvestro-Martin Jeff" <[REDACTED]>, "beth cooper" <[REDACTED]>
Subject: Fwd: Ryde Civic Precinct Redevelopment

G'day Ivan

I was asleep and missed your calls (I didn't realise you were expecting me to get back to you last night).

I've spoken to Phil and Jeff, who I understand will convey their thoughts direct. I'm copying the Mahony/Claytons correspondence to them to enable their informed advice.

It would seem the Mahony letter has rocked RCC if that's all Claytons can come up with.

My thoughts are

a) Re the Claytons letter, while John Mahony obviously will have a better idea in terms of law, it seems to be a weak fishing expedition which I would ignore with a simple letter back to them acknowledging their requests, "which are under consideration", and demanding their clients' substantive response to our letter, the deadline having passed.

On the names and packdrill nonsense, my understanding is that only a judge can call for names in an association (privacy regs etc). And if they seek a court order on that, well, while the will and intent is clear, time and other pressures have so far precluded formal structuring of an association as discussed on the Friday and there are resident concerns/considerations on undue pressure etc/fears or reprisal should those names be released. Nonetheless there is a substantive and substantial coalition of residents in support - i.e. an association* - as evidenced by the various community groups clearly ad idem yesterday. And those groups' memberships are in the hundreds? Thousands? And do we include the 3000 letter-writers who clearly have conjoint views?

"may have"breached the Local Government Act". Bunkum and an empty threat. Who? In what way? Was it one or more councillors? Or council officers? Or Lend Lease? Even if an offence was committed, they'd be hard pressed to prove it with time, date and place and MMO. In any event, given the shonks we're dealing with, even if proved the most I'd expect is an admonishment.

b) Funding. We will need to discuss overall funding and trust accounts as a group (wondering what the \$2500.00 is for v.a.v. the \$30,000.00 flagged for the Supreme Court action and for whose protection and against what?) Regrettably the leaflet mechanism we agreed on to garner community support and raise the \$30,000.00 through blanket letterboxing fell in a heap through lack of follow-up on the agreed steps (my understanding is that as a result, from Thursday, a somewhat motley collection of letters/flyers/leaflets/emails were circulated - Beth and I did 1300 homes in Melrose Park; and about 1000 more in total were dropped and emailed). My suggestions is that we consider legal options and finance to fund them in the context of the strategy on the way forward following outcomes at tonight's council meeting.

Regards

Warwick

* Wikipedia: Voluntary associations

<http://en.wikipedia.org/wiki/Voluntary_association> , groups of individuals who voluntarily enter into an agreement to accomplish a purpose

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Gary Best

Gary Best, Partner

Clayton Utz

Level 15, 1 Bligh Street, Sydney NSW 2000 Australia | D +61 2 9353 4177

| F +61 2 8220 6700 | M 0407 457 879 | gbest@claytonutz.com

www.claytonutz.com <file:///www.claytonutz.com>

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CLAYTON UTZ

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Confidential

Email

25 June 2012

Mr John Mahony
Mahony Taren Lawyers
Level 4
Norwest Central
12 Century Circuit
BAULKHAM HILLS NSW 2153

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Our ref 15266/15661/80126762

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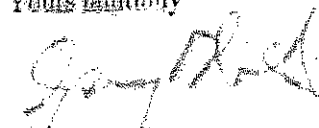
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gbest@claytonutz.com

Anne Taylor, Special Counsel
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ataylor@claytonutz.com

Kate Huber

From: John Mahony
Sent: Tuesday, 26 June 2012 11:16 AM
To: 'com'
Cc: John Mahony
Subject: Ryde Civic Development
Attachments: Costs Agreement.pdf; Tax Invoice 66672.pdf

Hi Warwick,

Further to our conversation this morning, please find **attached** for your execution and email return to us our Costs Agreement. That document will be signed by you for and on behalf of the unincorporated association being Ryde Concerned Citizens Association of which you are currently acting President.

I now **attach** our tax invoice for work done to date and note that you will attend to having it paid by the Association as soon as possible.

Kind regards,

John Mahony

Director

Mahony Taren Lawyers

Ph: 02 9849 6600

Fx: 02 8850 4761

E: john@mtlawyers.com.au

W: www.mahonytarenlawyers.com.au

Level 4, 12 Century Circuit
Norwest Business Park
Baulkham Hills NSW 2153

MAHONY TAREN LAWYERS: BEGIN WITH THE END IN MIND

This email contains information intended for the addressee only. This information is confidential and may be privileged. If you are not the intended recipient, you must not read, use, copy or distribute this email or its attachments. If you have received this in error, please notify us immediately by return email or telephone, and delete and destroy this email.

Liability limited by a scheme approved under Professional Standards Legislation.

TAREN LEGAL GROUP PTY LIMITED
trading as**MAHONY TAREN LAWYERS****STANDARD COSTS AGREEMENT**

Client: Ryde Concerned Citizens Association (Client)

Date: 26 June 2012

1. Offer

This document is an offer to enter into a costs agreement with you.

2. Nature of work

The work we have been instructed to do is to write to Ryde City Council requiring it to delay all further negotiations and work on the proposed arrangement with Lend Lease Development Pty Limited relating to the proposed Ryde Civic Precinct Redevelopment until after the next Council elections and/or commence injunctive proceedings against Ryde City Council to achieve that result.

3. Legal Profession Act 2004 (the Act) – disclosure requirements

The disclosure requirements, which we are required to provide you under the Act and which forms part of this document are contained in Annexure A and is entitled Standard Cost Disclosure (**Cost Disclosure**).

4. Acceptance of offer

If you accept this offer you will have entered into a costs agreement with us. This means you will be bound by the terms and conditions set out in this document, including being billed in accordance with it. Acceptance may be by any one of the following ways:

- signing and returning a copy of this document;
- giving us instructions after receiving this document; or
- oral acceptance.

Failure to accept our offer within seven days of dispatch of this document can result in the immediate withdrawal of our offer to act on your behalf.

5. Termination of agreement

5.1 Termination by us

We will not continue to do the Work if:

- (a) you fail to pay our bills;
- (b) you fail to provide us with adequate instructions within a reasonable time;
- (c) you give instructions that are deliberately false or intentionally misleading;
- (d) you fail to accept an offer of settlement which we think is reasonable;
- (e) you fail to accept advice we (or counsel) give you;
- (f) you engage another law practice to advise you on this matter without our consent;
- (g) we believe, on reasonable grounds, that we may have a conflict of interest;
- (h) you indicate to us that we have lost your confidence in us; or
- (i) we have any other just cause.

5.2 Termination by you

You may terminate this agreement at any time.

5.3 Effect of termination

If the agreement is terminated either you or us then the following provisions shall apply:

- (a) You will be required to pay our professional fees and charges for the Work done, and all expenses and disbursements incurred in connection with the Work;
- (b) For lump sum fee matters, you must pay such part of our lump sum fee that we reasonably estimate has been incurred in respect of the legal services provided to you up to the date of termination, plus charges, expenses and disbursements, subject to your right to a costs assessment;
- (c) You will be liable to pay our costs whether or not the other party to any court proceedings has to pay your costs of the proceedings;
- (d) On termination, we are entitled to retain possession of your papers and documents while there is money owing to us for our charges and expenses, or for any expenses and disbursements incurred in connection with the matter unless and until security to our satisfaction is provided for our costs and disbursements.

6. Retention of your documents

On completion of the Work, once the final bill has been rendered by us and paid by you, we will be entitled **at our option** to deal with any papers to which you are entitled, but which you leave in our possession (except documents deposited in safe custody) in one of two ways as follows:

Either:

Retain such papers for no more than seven years, and to destroy the file seven years after that date

Or

Microfiche such papers and destroy the file after completion of that process.

7. Privacy protection

Personal information about you provided by you and other sources is protected under legislation. The law may compel disclosure of such information. You authorise us to disclose such information where necessary to others in furtherance of your claim/matter (eg. Within the law practice, to the court, the other party or parties to litigation, to valuers, experts, barristers etc).

8. Payment/Money on account

We may ask you to pay us, in advance, some money on account of payments, which will be made to others and our costs.

OR

We will ask you to repay the money paid on your behalf as set out in clause 2.3 of the Standard Costs Disclosure (Annexure A hereto) as and when we send you bills for those payments.

9. Authorisation to transfer money from trust account

You authorise us to:

- (a) receive directly into our trust account money for any judgment or settlement money, or money received from any source in furtherance of your Work; and
- (b) pay our costs, disbursements and expenses from any money held on your behalf in our trust account upon sending you our bill of costs requesting payment.

10. Where the Client is a corporation or a body corporate, you agree that you sign this agreement for and on behalf of that corporation or body corporate and that you will remain jointly and severally liable for payment as principal debtor of all of the Client's legal costs in this matter. You further warrant that you have the requisite authority to enter into this agreement on behalf of the Client and that both the Client and you agree to be bound by the terms and conditions of this agreement.

Signed

.....
Signature of Client
Warwick Cooper (Acting President)
Ryde Concerned Citizens Association

.....
22 June 2012

.....
Signature of John Mahony, Solicitor

Annexure A**Standard Costs Disclosure**

Date: 26 June 2012
To: Ryde Concerned Citizens Association
Address:

This document discloses information about the cost of our legal services, and your rights, as required by the *Legal Profession Act 2004 (the Act)*. You may negotiate and enter into a costs agreement with us based on the information contained in this document. We note that a costs agreement has been sent to you with this Costs Disclosure document.

1. GST

All rates, charges, expenses etc in this document are GST exclusive unless otherwise stated. Where the service provided is subject to GST, GST of 10% will be added and charged to you.

2. Calculation of costs**Professional fees**

- (a) We will charge you professional fees for the Work we do at:
- an hourly rate of \$395.00 (plus 10% GST) for a partner/director;
 - an hourly rate of \$330.00 (plus 10% GST) for solicitors and associates;
 - an hourly rate of \$150.00 (plus 10% GST) for law clerks.
- (b) The rates in clause 2(a) will be proportionately charged for work involving shorter periods of less than one hour. Our charges are structured in six minute units. For example, the time charged for an attendance of up to six minutes will be charged as one unit and the time charged for an attendance between six and 12 minutes will be charged as two units.

Expenses and disbursements

- (a) We may incur expense and disbursements (being money which we pay or are liable to pay) to others on your behalf. These may include photocopying, postage, phone charges, secretarial fees, search fees, enquiry fees; court filing fees, process servers, clinical records from hospitals, medical reports, experts' reports, witness expenses, travel expenses, transcripts, barristers' fees.
- (b) We will inform you of these expenses and disbursements as well as any other payments required to be made, as soon as is reasonably practicable.

3. Estimate of costs

The following estimate is based on the information available to us to date. It is an **estimate, not a quotation** and is subject to change.

We estimate the cost of the Work to be:

Professional fees: (To finalise and forward letter of demand)	\$2,300.00
Professional fees: (To obtain and injunction)	\$30,000.00
Expenses & disbursements subject to GST: (To finalise and forward letter of demand)	\$100.00
Expenses & disbursements subject to GST: (To finalise and forward letter of demand)	\$2,500.00
SUBTOTAL:	\$34,900.00
GST	\$3,490.00
GST free expenses & disbursements	\$Nil
TOTAL (GST INCLUSIVE)	\$38,390.00

4. Your right to a bill of costs

You are entitled to receive a bill of costs from us. If we send you a lump sum bill you may request an itemised bill within 30 days of receipt of the lump sum bill.

5. Billing arrangements

We will send you a bill of costs containing details of our professional fees and charges, disbursements and expenses, including GST, **either** after completion of the Work, **or** monthly, or at other times as agreed with you while the Work is in progress.

6. Interest on unpaid costs

If you do not pay our costs within 30 days of receipt by you of our bill of costs, we may charge you interest on the unpaid amount at the rate prescribed as follows in the State where the Work is undertaken by us. The interest rate subject to change:

- (a) In New South Wales, the interest charged is in accordance with Regulation 110A of the *Legal Profession Regulation* 2005 at the rate prescribed in Schedule 5 of the *Uniform Civil Procedures Rules* which, as at the date of this disclosure, is 10%; and
- (b) In Victoria the *Penalty Interest Rates Act* 1983 prescribes the rate. As at the date of this disclosure the rate is 11%.

**NSW ICAC
EXHIBIT****7. Dispute as to legal costs**

The Act gives you the right to apply to the Supreme Court of the relevant State in which the Work is done by us to have the bill of costs reviewed for its fairness and reasonableness or a costs agreement set aside on the basis that it is not fair, just or reasonable.

Application for assessment should be made before the expiry of 60 days after receipt of the bill of costs, or request for payment of costs made by us, or full payment made to us, whichever is the earliest.

The application will be dealt with by a Cost Assessor.

8. Persons responsible for the Work

John Mahony will be responsible for your matter.

You may contact John Mahony regarding your matter and your legal costs.

9. Substantial changes to disclosure

You will be informed, as soon as is reasonably practicable, of any substantial changes to anything contained in this disclosure document.

10. Progress reports

You are entitled to request, at reasonable intervals, written progress reports on your matter. Our normal charge-out rates will apply for this service.

You are entitled to request a written report on the legal costs incurred to date since the last bill of costs was given to you, free of charge.

11. Engagement of other law practices (Barristers and Agents)

It may be necessary for us to engage, on your behalf, the services of another law practice to provide specialist advice or services, including advocacy services, or to act as our agent.

We will consult you as to the terms of that law practice's engagement, but you may be asked to enter into a costs agreement directly with that law practice. The law practice engaged by us will disclose costs in a similar manner and we will disclose those costs to you.

12. Costs in court proceedings**Costs order against other party**

If court proceedings are taken on your behalf, the court may order the other party to pay your costs of the proceedings. This sum will not necessarily cover the whole of your legal costs due to us. It is possible that the court may make an order that you pay the other party's costs (if, for instance, you lose the case). These costs are payable by you to the other party in addition to the costs payable to us.

Range of costs if you are successful

If you are **successful** in the litigation the following is the range of costs that may be recovered from the other party. The sums given below are merely **estimates**:

- | | | |
|-----|--|-------|
| (a) | prior to hearing: | \$TBA |
| (b) | up to and including a single day's hearing | \$TBA |
| (c) | up to and including three days' hearing | \$TBA |
| (d) | etc: | \$TBA |

Range of costs if you are unsuccessful

If you are **unsuccessful** in the litigation you may be ordered to pay the other party's costs. The sums given below are merely **estimates**, of what the other party's law practice may charge:

- | | | |
|-----|--|-------|
| (a) | prior to hearing: | \$TBA |
| (b) | up to and including a single day's hearing | \$TBA |
| (c) | up to and including three days' hearing | \$TBA |
| (d) | etc: | \$TBA |

Settlement negotiations

If **settlement** of your claim is being negotiated, we will provide you before settlement with:

- (a) a reasonable estimate of our costs payable by you on settlement;
- (b) a reasonable estimate of the costs you would obtain from the other party on settlement if the settlement is favourable to you;

OR

- (c) a reasonable estimate of the costs you may have to pay the other party.

13. Applicable Law

The law of the State in which the Work is to be done applies to legal costs regarding this matter.

TAREN LEGAL GROUP PTY LIMITED
trading as**MAHONY TAREN LAWYERS****STANDARD COSTS AGREEMENT**

Client: Ryde Concerned Citizens Association (Client)

Date: 26 June 2012

1. Offer

This document is an offer to enter into a costs agreement with you.

2. Nature of work

The work we have been instructed to do is to write to Ryde City Council requiring it to delay all further negotiations and work on the proposed arrangement with Lend Lease Development Pty Limited relating to the proposed Ryde Civic Precinct Redevelopment until after the next Council elections and/or commence injunctive proceedings against Ryde City Council to achieve that result.

3. Legal Profession Act 2004 (the Act) – disclosure requirements

The disclosure requirements, which we are required to provide you under the Act and which forms part of this document are contained in Annexure A and is entitled Standard Cost Disclosure (**Cost Disclosure**).

4. Acceptance of offer

If you accept this offer you will have entered into a costs agreement with us. This means you will be bound by the terms and conditions set out in this document, including being billed in accordance with it. Acceptance may be by any one of the following ways:

- signing and returning a copy of this document;
- giving us instructions after receiving this document; or
- oral acceptance.

Failure to accept our offer within seven days of dispatch of this document can result in the immediate withdrawal of our offer to act on your behalf.

5. Termination of agreement**5.1 Termination by us**

We will not continue to do the Work if:

- (a) you fail to pay our bills;
- (b) you fail to provide us with adequate instructions within a reasonable time;
- (c) you give instructions that are deliberately false or intentionally misleading;
- (d) you fail to accept an offer of settlement which we think is reasonable;
- (e) you fail to accept advice we (or counsel) give you;
- (f) you engage another law practice to advise you on this matter without our consent;
- (g) we believe, on reasonable grounds, that we may have a conflict of interest;
- (h) you indicate to us that we have lost your confidence in us; or
- (i) we have any other just cause.

5.2 Termination by you

You may terminate this agreement at any time.

5.3 Effect of termination

If the agreement is terminated either you or us then the following provisions shall apply:

- (a) You will be required to pay our professional fees and charges for the Work done, and all expenses and disbursements incurred in connection with the Work;
- (b) For lump sum fee matters, you must pay such part of our lump sum fee that we reasonably estimate has been incurred in respect of the legal services provided to you up to the date of termination, plus charges, expenses and disbursements, subject to your right to a costs assessment;
- (c) You will be liable to pay our costs whether or not the other party to any court proceedings has to pay your costs of the proceedings;
- (d) On termination, we are entitled to retain possession of your papers and documents while there is money owing to us for our charges and expenses, or for any expenses and disbursements incurred in connection with the matter unless and until security to our satisfaction is provided for our costs and disbursements.

6. Retention of your documents

On completion of the Work, once the final bill has been rendered by us and paid by you, we will be entitled **at our option** to deal with any papers to which you are entitled, but which you leave in our possession (except documents deposited in safe custody) in one of two ways as follows:

Either:

Retain such papers for no more than seven years, and to destroy the file seven years after that date

Or

Microfiche such papers and destroy the file after completion of that process.

7. Privacy protection

Personal information about you provided by you and other sources is protected under legislation. The law may compel disclosure of such information. You authorise us to disclose such information where necessary to others in furtherance of your claim/matter (eg. Within the law practice, to the court, the other party or parties to litigation, to valuers, experts, barristers etc).

8. Payment/Money on account

We may ask you to pay us, in advance, some money on account of payments, which will be made to others and our costs.

OR

We will ask you to repay the money paid on your behalf as set out in clause 2.3 of the Standard Costs Disclosure (Annexure A hereto) as and when we send you bills for those payments.

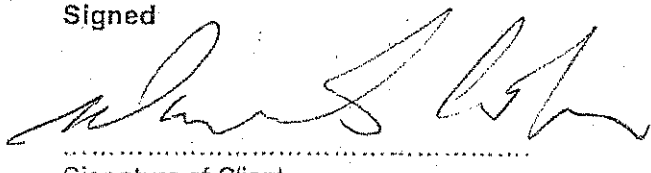
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- (a) receive directly into our trust account money for any judgment or settlement money, or money received from any source in furtherance of your Work; and
- (b) pay our costs, disbursements and expenses from any money held on your behalf in our trust account upon sending you our bill of costs requesting payment.

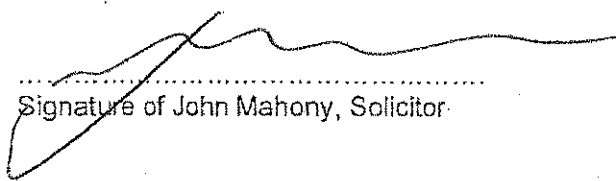
10. Where the Client is a corporation or a body corporate, you agree that you sign this agreement for and on behalf of that corporation or body corporate and that you will remain jointly and severally liable for payment as principal debtor of all of the Client's legal costs in this matter. You further warrant that you have the requisite authority to enter into this agreement on behalf of the Client and that both the Client and you agree to be bound by the terms and conditions of this agreement.

Signed

 28 Jan 2012

Signature of Client
Warwick Cooper (Acting President)
Ryde Concerned Citizens Association

22 June 2012




Signature of John Mahony, Solicitor

29 June 2012 ✓

Annexure A **NSW ICAC
EXHIBIT**

Standard Costs Disclosure

Date: 26 June 2012
 To: Ryde Concerned Citizens Association
 Address: 

This document discloses information about the cost of our legal services, and your rights, as required by the *Legal Profession Act 2004 (the Act)*. You may negotiate and enter into a costs agreement with us based on the information contained in this document. We note that a costs agreement has been sent to you with this Costs Disclosure document.

1. GST

All rates, charges, expenses etc in this document are GST exclusive unless otherwise stated. Where the service provided is subject to GST, GST of 10% will be added and charged to you.

2. Calculation of costs

Professional fees

(a) We will charge you professional fees for the Work we do at:

- an hourly rate of \$395.00 (plus 10% GST) for a partner/director;
- an hourly rate of \$330.00 (plus 10% GST) for solicitors and associates;
- an hourly rate of \$150.00 (plus 10% GST) for law clerks.

(b) The rates in clause 2(a) will be proportionately charged for work involving shorter periods of less than one hour. Our charges are structured in six minute units. For example, the time charged for an attendance of up to six minutes will be charged as one unit and the time charged for an attendance between six and 12 minutes will be charged as two units.

Expenses and disbursements

- (a) We may incur expense and disbursements (being money which we pay or are liable to pay) to others on your behalf. These may include photocopying, postage, phone charges, secretarial fees, search fees, enquiry fees; court filing fees, process servers, clinical records from hospitals, medical reports, experts' reports, witness expenses, travel expenses, transcripts, barristers' fees.
- (b) We will inform you of these expenses and disbursements as well as any other payments required to be made, as soon as is reasonably practicable.

3. Estimate of costs

The following estimate is based on the information available to us to date. It is an **estimate, not a quotation** and is subject to change.

We estimate the cost of the Work to be:

Professional fees: (To finalise and forward letter of demand)	\$2,300.00
Professional fees: (To obtain and injunction)	\$30,000.00
Expenses & disbursements subject to GST: (To finalise and forward letter of demand)	\$100.00
Expenses & disbursements subject to GST: (To finalise and forward letter of demand)	\$2,500.00
SUBTOTAL:	\$34,900.00
GST	\$3,490.00
GST free expenses & disbursements	\$Nil
TOTAL (GST INCLUSIVE)	\$38,390.00

4. Your right to a bill of costs

You are entitled to receive a bill of costs from us. If we send you a lump sum bill you may request an itemised bill within 30 days of receipt of the lump sum bill.

5. Billing arrangements

We will send you a bill of costs containing details of our professional fees and charges, disbursements and expenses, including GST, **either** after completion of the Work, **or** monthly, or at other times as agreed with you while the Work is in progress.

6. Interest on unpaid costs

If you do not pay our costs within 30 days of receipt by you of our bill of costs, we may charge you interest on the unpaid amount at the rate prescribed as follows in the State where the Work is undertaken by us. The interest rate subject to change:

- (a) In New South Wales, the interest charged is in accordance with Regulation 110A of the *Legal Profession Regulation 2005* at the rate prescribed in Schedule 5 of the *Uniform Civil Procedures Rules* which, as at the date of this disclosure, is 10%; and
- (b) In Victoria the *Penalty Interest Rates Act 1983* prescribes the rate. As at the date of this disclosure the rate is 11%.

7. Dispute as to legal costs

The Act gives you the right to apply to the Supreme Court of the relevant State in which the Work is done by us to have the bill of costs reviewed for its fairness and reasonableness or a costs agreement set aside on the basis that it is not fair, just or reasonable.

Application for assessment should be made before the expiry of 60 days after receipt of the bill of costs, or request for payment of costs made by us, or full payment made to us, whichever is the earliest.

The application will be dealt with by a Cost Assessor.

8. Persons responsible for the Work

John Mahony will be responsible for your matter.

You may contact John Mahony regarding your matter and your legal costs.

9. Substantial changes to disclosure

You will be informed, as soon as is reasonably practicable, of any substantial changes to anything contained in this disclosure document.

10. Progress reports

You are entitled to request, at reasonable intervals, written progress reports on your matter. Our normal charge-out rates will apply for this service.

You are entitled to request a written report on the legal costs incurred to date since the last bill of costs was given to you, free of charge.

11. Engagement of other law practices (Barristers and Agents)

It may be necessary for us to engage, on your behalf, the services of another law practice to provide specialist advice or services, including advocacy services, or to act as our agent.

We will consult you as to the terms of that law practice's engagement, but you may be asked to enter into a costs agreement directly with that law practice. The law practice engaged by us will disclose costs in a similar manner and we will disclose those costs to you.

12. Costs in court proceedings

Costs order against other party

If court proceedings are taken on your behalf, the court may order the other party to pay your costs of the proceedings. This sum will not necessarily cover the whole of your legal costs due to us. It is possible that the court may make an order that you pay the other party's costs (if, for instance, you lose the case). These costs are payable by you to the other party in addition to the costs payable to us.

MAHONY TAREN LAWYERS

26 June 2012

TAX INVOICE

ABN: 15 149 513 262

TAREN LEGAL GROUP PTY LTD
ACN 149 513 262
T/A MAHONY TAREN LAWYERS

Ryde Concerned Citizens Association

PO Box 8318
BHBC NSW 2153Phone: +61 2 9849 6600
Facsimile: +61 2 8850 4761

Bill No: 66672

Our Ref: 63367/John Mahony

Re: RYDE CITY COUNCIL - CIVIL PRECINCT

	Amount excl GST	GST	Amount incl GST
Our fee for all attendances to date relating to this matter as itemised overleaf	2,014.50	201.45	2,215.95
Disbursements and Office Charges			
Mr Ralph Notley - Barrister Fees (22.06.12)	450.00	45.00	495.00
Photocopies, Facsimiles and Postage	60.44	6.04	66.48
	<u>\$510.44</u>	<u>\$51.04</u>	<u>\$561.48</u>
TOTAL FOR THIS ACCOUNT (inclusive of GST)			<u><u>\$2,777.43</u></u>

With Compliments

Mahony Taren Lawyers*Mahony Taren Lawyers*

Remittance Advice

This account is payable on 10 July 2012 E&OEPayment may be made by direct credit to:
quoting reference: 63367-66672
National Australia Bank, NorwestFrom: Ryde Concerned Citizens Association
Account No:
Date: 26 June 2012
Amount: \$ 2,777.43

Date: 26 June 2012
Bill No: 66672
Our Ref: 63367/John Mahony

SCHEDULE OF ATTENDANCES**Re: RYDE CITY COUNCIL - CIVIL PRECINCT**

Date	Details	Solicitor	Hours	\$ Amount
15.06.12	Conference with clients	JFM	1.2	474.00
16.06.12	Perusing documents	JFM	1.2	474.00
20.06.12	Drafting letter	JFM	1.2	474.00
21.06.12	Finalising letter	JFM	0.7	276.50
25.06.12	Phone from Ivan and drafting resolution	JFM	0.8	316.00
Total time and value of work performed			5.1	\$2,014.50
GST on fees				\$201.45
Total Fees (inclusive of GST)				<u>\$2,215.95</u>

Date: 26 June 2012
Bill No: 66672
Our Ref: 63367/John Mahony

Legal Professional Act Notification

The **Legal Profession Act 2004** requires that we provide the following information:

Interest may be charged at the current rate of 8.75% prescribed by Regulation 110A of the **Legal Profession Regulation 2005** on any bill of costs which remains unpaid after 30 days.

You may apply to have this bill of costs assessed under Division 11 of Part 3.2 of the **Legal Profession Act 2004**. Any such application should be made to the Manager, Costs Assessment, Supreme Court within 60 days after this bill has been given to you. You may also apply under section 336 of that Act to have a costs dispute mediated where the amount in dispute is less than \$10,000. Referral to mediation is not permitted after an application for assessment has been accepted by the Manager, Costs Assessment.

You may apply under Section 328 of that Act to set aside any costs agreement, or a provision of a costs agreement entered into between us on the basis that it is not fair and reasonable.

If a lump sum bill is given to you, you have the right within 30 days to ask for an itemised bill. An itemised bill might include items of costs not taken into account in the lump sum bill thereby increasing costs. If an itemised bill is required, we reserve our right to rely on the itemised bill as our final bill.

Without affecting any of the above obligations and rights, if you do have any issue with any part of this bill of costs please contact any solicitor named on this bill or Mr John Mahony on 02 9894 1671 and we will be pleased to discuss your concerns with you.

FW: Ryde Civic Development

From: Warwick Cooper <
To: Salvestro-Martin Jel
ivanp@ryde.nsw.gov.au
Date: Tue, 26 Jun 2012 11:33:19 +1000
Attachments: Costs Agreement.pdf (188.09 kB); Tax Invoice 66672.pdf (52.73 kB)

Jeff/Phil/Ivan

Grateful your opinion on the attached from Mahony Taren. As advised, JM has said this is pro-forma in case Claytons goes MT on who they're representing; and repeatedly assured me it did NOT mean my personal liability if I signed. But there's also the small matter of \$2777 in costs/disbursements to date which needs to be covered. Remember the rule on contracts and considerations...I've said that while democracy takes time, it's effective; that we need a group meeting – essentially the people who were there yesterday – to decide on the way forward and, if it's Ryde Concerned Residents, elect office-bearers and arrange funds. JM has agreed to address that meeting.
Warwick

From: John Mahony [mailto:john@mtlawyers.com.au]

Sent: Tuesday, 26 June 2012 11:16 AM

To:

Cc: John Mahony

Subject: Ryde Civic Development

Hi Warwick,

Further to our conversation this morning, please find **attached** for your execution and email return to us our Costs Agreement. That document will be signed by you for and on behalf of the unincorporated association being Ryde Concerned Citizens Association of which you are currently acting President.

I now **attach** our tax invoice for work done to date and note that you will attend to having it paid by the Association as soon as possible.

Kind regards,

John Mahony

Director

Mahony Taren Lawyers

Ph: 02 9849 6600

Fx: 02 8850 4761

E: john@mtlawyers.com.au

W: www.mahonytarenlawyers.com.au

Level 4, 12 Century Circuit
Norwest Business Park
Baulkham Hills NSW 2153

MAHONY TAREN LAWYERS: BEGIN WITH THE END IN MIND

NSW ICAC EXHIBIT

1251

This email contains information intended for the addressee only. This information is confidential and may be privileged. If you are not the intended recipient, you must not read, use, copy or distribute this email or its attachments. If you have received this in error, please notify us immediately by return email or telephone, and delete and destroy this email.

Liability limited by a scheme approved under Professional Standards Legislation.

MAHONY TAREN LAWYERS

26 June 2012

TAX INVOICE

ABN: 15 149 513 262

TAREN LEGAL GROUP PTY LTD
ACN 149 513 262
T/A MAHONY TAREN LAWYERS

Ryde Concerned Citizens Association

PO Box 8318
BHBC NSW 2153Phone: +61 2 9849 6600
Facsimile: +61 2 8850 4761

Bill No: 66672

Our Ref: 63367/John Mahony

Re: RYDE CITY COUNCIL - CIVIL PRECINCT

	Amount excl GST	GST	Amount incl GST
Our fee for all attendances to date relating to this matter as itemised overleaf	2,014.50	201.45	2,215.95
Disbursements and Office Charges			
Mr Ralph Notley - Barrister Fees (22.06.12)	450.00	45.00	495.00
Photocopies, Facsimiles and Postage	60.44	6.04	66.48
	<u>\$510.44</u>	<u>\$51.04</u>	<u>\$561.48</u>

TOTAL FOR THIS ACCOUNT (inclusive of GST)\$2,777.43

With Compliments

Mahony Taren Lawyers*Mahony Taren Lawyers***Remittance Advice****This account is payable on 10 July 2012 E&OE**

made by direct credit to:

quoting reference: 63367-66672

National Australia Bank, Norwest

From: Ryde Concerned Citizens Association

Account No: 66672:JFM:63367

Date: 26 June 2012

Amount: \$ 2,777.43

NSW ICAC EXHIBIT

1253

Date: 26 June 2012
Bill No: 66672
Our Ref: 63367/John Mahony

SCHEDULE OF ATTENDANCES

Re: RYDE CITY COUNCIL - CIVIL PRECINCT

Date	Details	Solicitor	Hours	\$ Amount
15.06.12	Conference with clients	JFM	1.2	474.00
16.06.12	Perusing documents	JFM	1.2	474.00
20.06.12	Drafting letter	JFM	1.2	474.00
21.06.12	Finalising letter	JFM	0.7	276.50
25.06.12	Phone from Ivan and drafting resolution	JFM	0.8	316.00
Total time and value of work performed			5.1	\$2,014.50
GST on fees				\$201.45
Total Fees (inclusive of GST)				<u>\$2,215.95</u>

Date: 26 June 2012
Bill No: 66672
Our Ref: 63367/John Mahony

Legal Professional Act Notification

The **Legal Profession Act 2004** requires that we provide the following information:

Interest may be charged at the current rate of 8.75% prescribed by Regulation 110A of the **Legal Profession Regulation 2005** on any bill of costs which remains unpaid after 30 days.

You may apply to have this bill of costs assessed under Division 11 of Part 3.2 of the **Legal Profession Act 2004**. Any such application should be made to the Manager, Costs Assessment, Supreme Court within 60 days after this bill has been given to you. You may also apply under section 336 of that Act to have a costs dispute mediated where the amount in dispute is less than \$10,000. Referral to mediation is not permitted after an application for assessment has been accepted by the Manager, Costs Assessment.

You may apply under Section 328 of that Act to set aside any costs agreement, or a provision of a costs agreement entered into between us on the basis that it is not fair and reasonable.

If a lump sum bill is given to you, you have the right within 30 days to ask for an itemised bill. An itemised bill might include items of costs not taken into account in the lump sum bill thereby increasing costs. If an itemised bill is required, we reserve our right to rely on the itemised bill as our final bill.

Without affecting any of the above obligations and rights, if you do have any issue with any part of this bill of costs please contact any solicitor named on this bill or Mr John Mahony on 02 9894 1671 and we will be pleased to discuss your concerns with you.

TAREN LEGAL GROUP PTY LIMITED
trading as

MAHONY TAREN LAWYERS

STANDARD COSTS AGREEMENT

Client: Ryde Concerned Citizens Association (Client)

Date: 26 June 2012

1. Offer

This document is an offer to enter into a costs agreement with you.

2. Nature of work

The work we have been instructed to do is to write to Ryde City Council requiring it to delay all further negotiations and work on the proposed arrangement with Lend Lease Development Pty Limited relating to the proposed Ryde Civic Precinct Redevelopment until after the next Council elections and/or commence injunctive proceedings against Ryde City Council to achieve that result.

3. Legal Profession Act 2004 (the Act) – disclosure requirements

The disclosure requirements, which we are required to provide you under the Act and which forms part of this document are contained in Annexure A and is entitled Standard Cost Disclosure (**Cost Disclosure**).

4. Acceptance of offer

If you accept this offer you will have entered into a costs agreement with us. This means you will be bound by the terms and conditions set out in this document, including being billed in accordance with it. Acceptance may be by any one of the following ways:

- signing and returning a copy of this document;
- giving us instructions after receiving this document; or
- oral acceptance.

Failure to accept our offer within seven days of dispatch of this document can result in the immediate withdrawal of our offer to act on your behalf.

5. Termination of agreement**5.1 Termination by us**

We will not continue to do the Work if:

- (a) you fail to pay our bills;
- (b) you fail to provide us with adequate instructions within a reasonable time;
- (c) you give instructions that are deliberately false or intentionally misleading;
- (d) you fail to accept an offer of settlement which we think is reasonable;
- (e) you fail to accept advice we (or counsel) give you;
- (f) you engage another law practice to advise you on this matter without our consent;
- (g) we believe, on reasonable grounds, that we may have a conflict of interest;
- (h) you indicate to us that we have lost your confidence in us; or
- (i) we have any other just cause.

5.2 Termination by you

You may terminate this agreement at any time.

5.3 Effect of termination

If the agreement is terminated either you or us then the following provisions shall apply:

- (a) You will be required to pay our professional fees and charges for the Work done, and all expenses and disbursements incurred in connection with the Work;
- (b) For lump sum fee matters, you must pay such part of our lump sum fee that we reasonably estimate has been incurred in respect of the legal services provided to you up to the date of termination, plus charges, expenses and disbursements, subject to your right to a costs assessment;
- (c) You will be liable to pay our costs whether or not the other party to any court proceedings has to pay your costs of the proceedings;
- (d) On termination, we are entitled to retain possession of your papers and documents while there is money owing to us for our charges and expenses, or for any expenses and disbursements incurred in connection with the matter unless and until security to our satisfaction is provided for our costs and disbursements.

6. Retention of your documents

On completion of the Work, once the final bill has been rendered by us and paid by you, we will be entitled **at our option** to deal with any papers to which you are entitled, but which you leave in our possession (except documents deposited in safe custody) in one of two ways as follows:

Either:

Retain such papers for no more than seven years, and to destroy the file seven years after that date

Or

Microfiche such papers and destroy the file after completion of that process.

7. Privacy protection

Personal information about you provided by you and other sources is protected under legislation. The law may compel disclosure of such information. You authorise us to disclose such information where necessary to others in furtherance of your claim/matter (eg. Within the law practice, to the court, the other party or parties to litigation, to valuers, experts, barristers etc).

8. Payment/Money on account

We may ask you to pay us, in advance, some money on account of payments, which will be made to others and our costs.

OR

We will ask you to repay the money paid on your behalf as set out in clause 2.3 of the Standard Costs Disclosure (Annexure A hereto) as and when we send you bills for those payments.

9. Authorisation to transfer money from trust account

You authorise us to:

- (a) receive directly into our trust account money for any judgment or settlement money, or money received from any source in furtherance of your Work; and
- (b) pay our costs, disbursements and expenses from any money held on your behalf in our trust account upon sending you our bill of costs requesting payment.

10. Where the Client is a corporation or a body corporate, you agree that you sign this agreement for and on behalf of that corporation or body corporate and that you will remain jointly and severally liable for payment as principal debtor of all of the Client's legal costs in this matter. You further warrant that you have the requisite authority to enter into this agreement on behalf of the Client and that both the Client and you agree to be bound by the terms and conditions of this agreement.

Signed

.....
Signature of Client
Warwick Cooper (Acting President)
Ryde Concerned Citizens Association

.....
22 June 2012

.....
Signature of John Mahony, Solicitor

NSW ICAC EXHIBIT

Annexure A

Standard Costs Disclosure

Date: 26 June 2012
 To: Ryde Concerned Citizens Association
 Address: [REDACTED]

This document discloses information about the cost of our legal services, and your rights, as required by the *Legal Profession Act 2004 (the Act)*. You may negotiate and enter into a costs agreement with us based on the information contained in this document. We note that a costs agreement has been sent to you with this Costs Disclosure document.

1. GST

All rates, charges, expenses etc in this document are GST exclusive unless otherwise stated. Where the service provided is subject to GST, GST of 10% will be added and charged to you.

2. Calculation of costs

Professional fees

(a) We will charge you professional fees for the Work we do at:

- an hourly rate of \$395.00 (plus 10% GST) for a partner/director;
- an hourly rate of \$330.00 (plus 10% GST) for solicitors and associates;
- an hourly rate of \$150.00 (plus 10% GST) for law clerks.

(b) The rates in clause 2(a) will be proportionately charged for work involving shorter periods of less than one hour. Our charges are structured in six minute units. For example, the time charged for an attendance of up to six minutes will be charged as one unit and the time charged for an attendance between six and 12 minutes will be charged as two units.

Expenses and disbursements

- (a) We may incur expense and disbursements (being money which we pay or are liable to pay) to others on your behalf. These may include photocopying, postage, phone charges, secretarial fees, search fees, enquiry fees; court filing fees, process servers, clinical records from hospitals, medical reports, experts' reports, witness expenses, travel expenses, transcripts, barristers' fees.
- (b) We will inform you of these expenses and disbursements as well as any other payments required to be made, as soon as is reasonably practicable.

NSW ICAC EXHIBIT

3. Estimate of costs

The following estimate is based on the information available to us to date. It is an **estimate, not a quotation** and is subject to change.

We estimate the cost of the Work to be:

Professional fees: (To finalise and forward letter of demand)	\$2,300.00
Professional fees: (To obtain and injunction)	\$30,000.00
Expenses & disbursements subject to GST: (To finalise and forward letter of demand)	\$100.00
Expenses & disbursements subject to GST: (To finalise and forward letter of demand)	\$2,500.00
SUBTOTAL:	\$34,900.00
GST	\$3,490.00
GST free expenses & disbursements	\$Nil
TOTAL (GST INCLUSIVE)	\$38,390.00

4. Your right to a bill of costs

You are entitled to receive a bill of costs from us. If we send you a lump sum bill you may request an itemised bill within 30 days of receipt of the lump sum bill.

5. Billing arrangements

We will send you a bill of costs containing details of our professional fees and charges, disbursements and expenses, including GST, **either** after completion of the Work, **or** monthly, or at other times as agreed with you while the Work is in progress.

6. Interest on unpaid costs

If you do not pay our costs within 30 days of receipt by you of our bill of costs, we may charge you interest on the unpaid amount at the rate prescribed as follows in the State where the Work is undertaken by us. The interest rate subject to change:

- (a) In New South Wales, the interest charged is in accordance with Regulation 110A of the *Legal Profession Regulation 2005* at the rate prescribed in Schedule 5 of the *Uniform Civil Procedures Rules* which, as at the date of this disclosure, is 10%; and
- (b) In Victoria the *Penalty Interest Rates Act 1983* prescribes the rate. As at the date of this disclosure the rate is 11%.

7. Dispute as to legal costs

The Act gives you the right to apply to the Supreme Court of the relevant State in which the Work is done by us to have the bill of costs reviewed for its fairness and reasonableness or a costs agreement set aside on the basis that it is not fair, just or reasonable.

Application for assessment should be made before the expiry of 60 days after receipt of the bill of costs, or request for payment of costs made by us, or full payment made to us, whichever is the earliest.

The application will be dealt with by a Cost Assessor.

8. Persons responsible for the Work

John Mahony will be responsible for your matter.

You may contact John Mahony regarding your matter and your legal costs.

9. Substantial changes to disclosure

You will be informed, as soon as is reasonably practicable, of any substantial changes to anything contained in this disclosure document.

10. Progress reports

You are entitled to request, at reasonable intervals, written progress reports on your matter. Our normal charge-out rates will apply for this service.

You are entitled to request a written report on the legal costs incurred to date since the last bill of costs was given to you, free of charge.

11. Engagement of other law practices (Barristers and Agents)

It may be necessary for us to engage, on your behalf, the services of another law practice to provide specialist advice or services, including advocacy services, or to act as our agent.

We will consult you as to the terms of that law practice's engagement, but you may be asked to enter into a costs agreement directly with that law practice. The law practice engaged by us will disclose costs in a similar manner and we will disclose those costs to you.

12. Costs in court proceedings

Costs order against other party

If court proceedings are taken on your behalf, the court may order the other party to pay your costs of the proceedings. This sum will not necessarily cover the whole of your legal costs due to us. It is possible that the court may make an order that you pay the other party's costs (if, for instance, you lose the case). These costs are payable by you to the other party in addition to the costs payable to us.

Range of costs if you are successful

If you are **successful** in the litigation the following is the range of costs that may be recovered from the other party. The sums given below are merely **estimates**:

- | | | |
|-----|--|-------|
| (a) | prior to hearing: | \$TBA |
| (b) | up to and including a single day's hearing | \$TBA |
| (c) | up to and including three days' hearing | \$TBA |
| (d) | etc: | \$TBA |

Range of costs if you are unsuccessful

If you are **unsuccessful** in the litigation you may be ordered to pay the other party's costs. The sums given below are merely **estimates**, of what the other party's law practice may charge:

- | | | |
|-----|--|-------|
| (a) | prior to hearing: | \$TBA |
| (b) | up to and including a single day's hearing | \$TBA |
| (c) | up to and including three days' hearing | \$TBA |
| (d) | etc: | \$TBA |

Settlement negotiations

If **settlement** of your claim is being negotiated, we will provide you before settlement with:

- (a) a reasonable estimate of our costs payable by you on settlement;
- (b) a reasonable estimate of the costs you would obtain from the other party on settlement if the settlement is favourable to you;

OR

- (c) a reasonable estimate of the costs you may have to pay the other party.

13. Applicable Law

The law of the State in which the Work is to be done applies to legal costs regarding this matter.

Re: FW: Mitchell Corn

From: Philip Peake

To: Warwick Cooper

Cc: Salvestro-Martin, Jeff
Beth

Ivan Petch <ivanp@ryde.nsw.gov.au>

Date: Wed, 27 Jun 2012 15:45:39 +1000

Warwick,

I thought this was Pro-Bono. that is what I understood.

I have made it pretty clear to all, that I'm not in a financial position to contribute on this.

Best Regards

Phil Peake.

On Wed, Jun 27, 2012 at 3:05 PM, Warwick Cooper wrote:

Jeff, Ivan and Phil

1. Can we pls talk on the Mahony costs invoice of \$2700 so far (attached) which appears to be at my door and with the finger pointing that I pay in toto (which is not going to happen); also the form (attached) for me to sign, supposedly at no cost to me, to establish Ryde Concerned Citizens Assn. I make it clear I do not want to and will not be unilaterally fitted with the (escalating) Mahony legal costs and that we have to work out an acceptable arrangement for them to be paid. Beth and I already have spent about \$500 on printing etc: it was not part of the deal that we be saddled further, a matter we made clear to John Mahony at the outset. We will contribute what we can but as two of the many concerned citizens.

2. A few minutes ago, I attempted to call back David Baldwin of Lend Lease, who I rang this morning to request a meeting with councillors and residents and who, while he said he would check with more senior personnel and get back to me, has not. The switch asked if the call was in relation to Ryde and when I said it was, said 'aah, I thought so', then said it was no longer David Baldwin but that I would speak to Tara Spencer, who I elicited is apparently in marketing (spin). The call went to her voicemail. I did not leave a message. Suggest a) Jeff make a follow-up call to LL as per strategy discussed and b) the idea of the letter is looking good... but we need to sort out the Mahoiny payments.

Over to you.

Warwick

From: John Mahony [mailto:john@mtlawyers.com.au]
Sent: Wednesday, 27 June 2012 2:30 PM
[REDACTED]
Subject: FW: Mitchell Corn

Warwick,

Fyi

Regards

John Mahony

From: John Mahony
Sent: Wednesday, June 27, 2012 2:08 PM
[REDACTED]
Cc: John Mahony
Subject: FW: Mitchell Corn

Hi Ivan,

Hopefully they will pick it up tomorrow.

Unfortunately I cannot do anything further on this matter including the draft letter to Lend Lease until our tax invoice sent to Warwick Cooper yesterday has been paid.

I attach a copy of the email I sent to Warwick yesterday. I also need the Costs Agreement signed and returned to us by email.

Once the Costs Agreement and the current tax invoice has been paid I will be able to go full steam ahead on the matter.

When paying the tax invoice can you ensure it is paid into our trust account, details of which are set out hereunder. Please disregard the office account details on the tax invoice.

BSB: [REDACTED]

Account No: [REDACTED]

Account Name: Mahony Taren Lawyers Trust Account

I am sorry to appear to be difficult about this but our cash flow is suffering enormously from having done work for clients without money in trust and who have subsequently taken forever to pay their accounts despite the good results we are achieving.

Regards,

John Mahony

Director

Mahony Taren Lawyers

Ph: 02 9849 6600

Fx: 02 8850 4761

E: john@mtlawyers.com.au

W: www.mahonytarenlawyers.com.au

Level 4, 12 Century Circuit

Norwest Business Park

Baulkham Hills NSW 2153

MAHONY TAREN LAWYERS: BEGIN WITH THE END IN MIND

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From: Clr. Ivan Petch [mailto: [REDACTED]]
Sent: Wednesday, June 27, 2012 11:43 AM
To: John Mahony
Subject: Fwd: Mitchell Corn

Hi John

I spoke to Paul Christenson this morning and gave him my contact details but it seems the program just ran out of time.

On another note a friend who shares the same point of view with the civic centre redevelopment suggests that funding might be available from the IMF for a class action. His name is Mitch Geddes and I have suggested he talk to you.

Lastly enclosed is an email I received from Terry Perrum, one of our independent councillors regarding putting Lend Lease on notice. Is it possible that you might craft an appropriate letter?

Regards

Ivan Petch

Sent from my iPhone

Begin forwarded message:

From: "Terry Perram" [REDACTED]
Date: 27 June 2012 10:13:26 AM AEST
To: "Salvestro-Martin Jeff" [REDACTED]; "Michael Butterworth" < [REDACTED]>
"Ivan Petch" [REDACTED]; "Justin Li for Ryde Campaign" [REDACTED]
"Victor Tagg" [REDACTED]
Subject: Re: Mitchell Corn

Hi Jeff

I believe the next move has to be a communication with Lend Lease. This can either be done by meeting, which I doubt they will agree to, or by letter, which can be sent to the company and published in the TWT.

I suggest Ivan's solicitor be asked to put together an suitable letter to Lend Lease advising that the four independent councillors and three labor candidates, all standing for election in September and likely to be elected together with any other like minded councillors opposed to the development will have a clear majority on the council. They will bring about a resolution of Council to pursue termination or non-performance of any agreement negotiated by the general manager. On this basis we recommend lend lease does not sign any agreement until after the local government election in September.

Being made aware of this prior to signing allows Lend lease to understand the risk and diminishes any remedies available to them in the event the project does not proceed.

It becomes a case of buyer beware.

**NSW ICAC
EXHIBIT**

Regards

Terry

PS: did you notice in the advice from Clayton Utz last night that CU considers it OK for the GM to sign the agreement after 8 August on the basis that Council has delegated authority to him.

----- Original Message -----

From: Salvestro-Martin Jeff

To: Michael Butterworth ; Ivan Petch ; Justin Li for Ryde Campaign ; Terry Perram ; Victor Tagg

Sent: Wednesday, June 27, 2012 9:50 AM

Subject: Mitchell Corn

I turned around and Corn has scurried off before meeting had ended. I suspect to sign the agreement. We need to check.

Also time for a meeting with Lend Lease - your thoughts ?

A brilliant effort by all last night - well done guys.

BR J

Jeff Salvestro-Martin

Int Government Business Unit



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Re: FW: Mitchell Corn

From: Salvestro-Martin Jeff [REDACTED]
To:
Cc: ivanp@ryde.nsw.gov.au, angelb@f
Date: Wed, 27 Jun 2012 15:58:04 +1000

Ivan your baby mate. You know my tjhoughts re legal profession brj

From: Philip Peake
To: Warwick Cooper
Cc: Salvestro-Martin Jeff; Ivan Petch ; Beth Angel
Sent: Wed Jun 27 06:45:39 2012
Subject: Re: FW: Mitchell Corn
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Level 4, 12 Century Circuit

Norwest Business Park

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[REDACTED]



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Gina Strano

From: Gina Strano on behalf of John Mahony
Sent: Friday, 29 June 2012 1:56 PM
To: 'leonard.blundell@lepdlease.com'
Subject: Ryde City Council - Civic Precinct Redevelopment
Attachments: SCAN3236_000.pdf

Importance: High

Dear Mr Blundell,

Please refer to the **attached** letter.

Regards,
John Mahony
Mahony Taren Lawyers

Ph: 02 9849 6600

Fx: 02 8850 4761

E: john@mtlawyers.com.au

W: www.mahonytarenlawyers.com.au

Level 4, 12 Century Circuit
Norwest Business Park
Baulkham Hills NSW 2153

MAHONY TAREN LAWYERS: BEGIN WITH THE END IN MIND

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MAHONY TAREN
LAWYERS

A TAREN LEGAL GROUP FIRM

NSW ICAC¹²⁷⁶
EXHIBIT

Our Ref: JFM:gs:63367

29 June 2012

Leonard Blundell - General Counsel
Business Development
Lend Lease

By email: leonard.blundell@lendlease.com

Dear Mr Blundell

RYDE CITY COUNCIL - CIVIC PRECINCT REDEVELOPMENT

We act on behalf of Ryde Concerned Citizens Association, which is an Association of citizens of Ryde City, who are specifically concerned with Ryde Council's plans to enter into negotiations, leading to the execution of a Project Delivery Agreement with your company for the proposed Ryde Civic Precinct Redevelopment.

We wrote to Council on 22 June 2012 requesting on behalf of our client that all negotiations with your company in relation to that project be stayed, until after the next Ryde City Council elections in early September 2012.

Amongst other things, we advised the Council that our client had received information indicating that the likely new Council in place after the September 2012 elections, will not support the Ryde Civic Precinct Redevelopment in its current form and would therefore be seeking to extricate itself from any agreement entered into with your company in relation thereto.

We are instructed that on 26 June 2012, Ryde Council at its general meeting decided to disregard our client's request to delay all further negotiations with your company, until after the next Council elections and on the Mayor's casting vote, resolved to proceed with negotiations with your company.

Our client is concerned to ensure that it is made clear to your company, that all indications are that the new Council after September this year will not support any arrangements entered into with your company by the current Council. That information is clearly relevant to discussions which you are about to have with the Council.

It is therefore clear that your company should now delay entering into an agreement with the Council prior to the next Council election.

Our client is concerned that full disclosure of what it believes will be the new Council's position after September 2012, should be made to your company now.

TAREN LEGAL GROUP PTY LTD T/A MAHONY TAREN LAWYERS ABN 15 149 513 262

TELEPHONE: 02 9849 6600 FACSIMILE: 02 8850 4761

PO BOX 8318 BHBC, NSW 2153

LEVEL 4 NORWEST CENTRAL, 12 CENTURY CIRCUIT, BAULKHAM HILLS, NSW, 2153

law@mtlawyers.com.au www.mahonytarenlawyers.com.au

120628.01

It is therefore in the interests of complete and open transparency, that we are instructed by the Ryde Concerned Citizens Association to warn your company that it should delay further negotiations with Ryde City Council, until such time as the new Council has been formed following the September 2012 election.

Yours faithfully
Mahony Taren Lawyers

Mahony Taren Lawyers

John Mahony
Solicitor
Email: john@mtlawyers.com.au

RE: RCC, LEGALS, LEND LEASE LETTER

From: Warwick Coope.
To: Philip Peake
Cc: Ivan Petch <ivanp@ryde.nsw.gov.au>
Date: Sat, 30 Jun 2012 08:58:49 +1000

Phil

The first letter was distributed to media etc....

2nd letter is definitely public domain – will be on Alan Jones on Monday. Can you get it to Robbie Paterson NDT and to TWT?

Warwick.

From: Phillip Peake [r]
Sent: Saturday, 30 June 2012 7:12 AM
To: Warwick Cooper
Subject: Re: RCC, LEGALS, LEND LEASE LETTER

Hey what happened with the other letter?

It did not get published anywhere public so I was hesitant to send out too far.

Is this last letter definitely "public domain"?

Best Regards

Phil Peake.

On Fri, Jun 29, 2012 at 9:04 AM, Warwick Cooper <
Phil

> wrote:

Letting you know that, as discussed

a) I yesterday signed the forms to bring Ryde Concerned Citizens (RCC) into existence, with me as its temporary anchor.

I suggest you call a meeting of interested community organisations and people (and, obviously, the six councillors) asap to enable establishment of an executive, goals and game plan as an umbrella organisation providing coordinating and cohesive leadership, guts and gumption for the people of Ryde and with you as its president (a great vehicle and platform for your coming campaign).

b) I believe the legal funds matter has been sorted, at least for the short term. I paid \$2700, given by a respected benefactor, to Mahony Taren yesterday and John Mahony has repeatedly confirmed RCC matters are at no personal cost. John is happy to address the RCC meeting.

c) John has prepared a letter to Lend Lease on behalf of RCC and the six opposing councillors (copy attached). Once all six have signed off – expected today – and it's sent, I'll send you a copy. We'll talk on distribution but my view is it should be as wide as possible – media, community groups etc. Let's check with the councillors first.

Kind regards

Warwick

RE:

From: Warwick Cooper <
To: John Mahony <john@mtlawyers.com.au>
Cc: Ivan Petch <ivanp@ryde.nsw.gov.au>, Salvestro-Martin Jeff <
Date: Fri, 06 Jul 2012 08:26:14 +1000

John

You may like to mention that Ryde Concerned Citizens' views are that:

- The deal is unsustainable, which is why the banks and insurers are not involved and council is borrowing \$35 million to give to Lend Lease; and that it exposes residents to 130 per cent debt to assets if it falls over – i.e. rate rises/loss of services and amenities... or a bankrupt council
- We estimate that residents' exposure in real terms is to the order of \$200 million, given that the civic land to be gifted to Lend Lease has been valued at well more than \$100 million and the rubbery – and, importantly, untested – figures supplied by Lend Lease and the gm are clearly well understated across the board and don't allow for over-runs, unstable geology or the drainage and like threats the buildings pose to the hundred and hundreds of residents down the hill on top of which it's perched.
- There are very deep concerns over the fiscal and fiduciary responsibilities of the players: Lend Lease recently was fined \$54 million by the US Federal Court for what the Deputy Director of the FBI described as systematic and audacious fraud, mainly against public institutions; the gm reportedly left a \$50 million debt at Parramatta council and reportedly left the National Trust technically insolvent and seeking government assistance
- The deal is being done behind closed doors, (against COAG and Local Government Act requirements – i.e. council is breaking the law): they are not listening to the 3000 residents who complained in writing or the overwhelming majority of residents who are deeply concerned at
 - a) our loss of financial equity and
 - b) council's lack of consultation

For example 24 residents – including financiers, town planners, engineers and demographers – spoke against the deal at the last council meeting and one (a local shopkeeper) for, a pattern at each council meeting at which the deal is raised. (The gm and mayor rudely and arrogantly fiddle with their laptops or gaze at the ceiling while the residents speak. They will not consider the pragmatic alternative of a \$25 million refit of the current building in which council retains our priceless civic land). (We have letterboxed extensively and are well-aware of the tsunami of white-hot resident anger; an anger also reflected in the local print media).

- Council has empowered the gm to unilaterally negotiate and sign a legally enforceable agreement BEFORE building height levels, apartment numbers, traffic solutions, staff relocations and the like have been negotiated and agreed. Unprecedented?
- The six 'good guy' councillors – labor, liberal and independent – supporting the residents in opposing the deal include four former mayors and collectively have more than 100 years of experience in local government. They have been threatened with the sack by the gm and mayor.

- The benefits? Lend Lease gets 24 – 26 storey twin towers with 630 apartments, commercial and retail reas. We get a nicer office for the mayor, 50 extra seats in an auditorium, some change rooms, lose a large tract of public land and gain an aircraft hazard and massive traffic chaos in an already clogged Top Ryde.
- Why the rush? Why the secrecy? This whole matter should be stayed immediately and until the coming local government elections. And the deal's various elements and the conduct of the people involved then thoroughly, objectively, independently examined. Which no doubt the incoming council will organise.

With kind regards

Warwick

From: John Mahony [mailto:john@mtlawyers.com.au]

Sent: Thursday, 5 July 2012 4:48 PM

To:

Cc:

Subject: FW:

Gentlemen,
FYI
Regards,

John Mahony

Mahony Taren Lawyers

Ph: 02 9849 6600

Fx: 02 8850 4761

E: john@mtlawyers.com.au

W: www.mtlawyers.com.au

Level 4, 12 Century Circuit
Norwest Business Park
Baulkham Hills NSW 2153

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From: Alan Jones [mailto:alanjones@2gb.com]

Sent: Thursday, 5 July 2012 11:38 AM

To: John Mahony

Subject:

5 July 2012

Dear John,

Thank you for your note re the Lend Lease response. I'm going to do something with Ivan Petch on this once I have the stuff sorted out in my mind. But I note Warwick Cooper and Jeff Salvestro-Martin.

With best wishes,

Alan Jones AO



Radio 2GB

Level 1, Building C,

33-35 Saunders St,

PYRMONT NSW 2009

e: alanjones@2gb.com

t: 8570 0000

f: 8570 0314

**NSW ICAC
EXHIBIT**

FW:

From: Warwick Cooper <
To: Salvestro-Martin Je... Ivan Petc
Philip Peake Michael Evangelidis
<michael.evangelidis@parliament.nsw.gov.au>
Date: Thu, 02 Aug 2012 11:52:26 +1000

All

The following is from my mate who's an expert on local government, based on his assessment of my correspondence with DLG (copied below)...

The advice is clear: on the face of it, Ryde City Council is breaking the law and warrants an urgent DLG investigation into its illegal dealings.

It forms the basis for the meeting with Victor Dominello tomorrow: the call that, as our representative in this representative democracy, he call on the minister for local government (the Premier) to immediately instruct DLG to investigate the RCC/Lend Lease deal as a matter of urgency; and to instruct that there be a stay on proceedings until the investigation is concluded. That is, we are calling on our parliamentary representative to act in our interests to ensure that our local government instrumentality obeys the law, which on the evidence at hand it is not.

Phil please note I've copied this to Michael Evangelides, with whom I've been in email contact and to whom I'll be speaking later today.

Warwick

Warwick, The following points ... I hope this helps.

GM – I would think legally he remains GM until such time as the minutes sacking him are confirmed. Morally, of course, he should stand down but that wouldn't solve the problem. The acting GM would have the same authority & presumably be of a like mind & carry on the process with Lend Lease.

S377 – From the information you have provided, the approval of RCC to grant the delegation to the GM is in breach of this section of the Act. In view of the expenditure involved it is appropriate to expect the DLG to authorize an investigation of RCC under section 430 as a matter of urgency. It should also ask the GM to stand down & stay any further dealings with Lend Lease.

DLG – If the DLG is unwilling to authorize an investigation under section 430, your options are limited. You can ask The Ombudsman to investigate as a matter of urgency stressing the breaches of sections 55, 377 & 400H & the inaction by the DLG. You could take the matter to court seeking an injunction but are probably precluded from a cost perspective or you can take the matter to one of the current affairs programs & use the media. ICAC is a possibility but you probably have no proof & ICAC may be reluctant to act on innuendo.

Background previously supplied:

Warwick, The sections of the Act I consider relevant are 55, 377(1h,i), 400H, 429 429A & 430. I've attached links to them. I think 400H is from the Act, not the Regulations. I'm not sure if a councilor would be regarded as a public official for purposes of S429A. I don't think the GM has the authority to sign a legally enforceable agreement. He probably has the authority to negotiate but no further. Hope this helps. Leigh
http://www.austlii.edu.au/au/legis/nsw/consol_act/lga1993182/s55.html - refers to tenders
http://www.austlii.edu.au/au/legis/nsw/consol_act/lga1993182/s377.html - refers to delegations
http://www.austlii.edu.au/au/legis/nsw/consol_act/lga1993182/s400h.html - refers to Director General requiring details of PPP

http://www.austlii.edu.au/au/legis/nsw/consol_act/lga1993182/s429.html - refers to DG requiring information
http://www.austlii.edu.au/au/legis/nsw/consol_act/lga1993182/s429a.html - refers to complaints about Councils
http://www.austlii.edu.au/au/legis/nsw/consol_act/lga1993182/s430.html - refers to investigation of Councils

From: Warwick Cooper
Sent: Wednesday, 1 August 2012 1:48 PM
To: 'Grahame Gibbs'
Cc: 'Philip Peake'; 'Clr. Ivan Petch'; Salvestro-Martin Jeff
Subject: RE:

ATTENTION: GRAHAME GIBBS, MANAGER INVESTIGATIONS AND PERFORMANCE

Grahame

I feel compelled to record my dismay at your response today (below), presumably for Ross Woodward, for the following reasons:

1. Ryde City Council and its general manager, on the face of it, are acting contrary to the Local Government Act – that is, breaking the law – specifically in terms of sections 55, 377(1h,i), 400H, 429, 429A and 430 – and should be stopped immediately.
2. DLG, as the guardian of the Act, has a clear mandamus through delegation and governance responsibility to police the Act – i.e. enforce the law as an instrument of the law – and should act immediately as our community's protector to ensure that RCC obeys the law.
3. Crucially, on the face of it, the RCC delegation provided to the General Manager to unilaterally and behind closed doors negotiate an outcome that reasonably satisfies the requirements of the (already fatally flawed and failed) RCC tender process is illegal, the LGA s377, specifically forbidding such conduct. That is, in pursuing this conduct, RCC and its GM are breaking the law. Especially given the imminent elections and the fact that the GM has been sacked.
4. Further, on the face of it there have been breaches of the Act's protocols, particularly in relation to 400H and capital expenditure review, a matter which DLG should act on immediately because it goes to the core of whether RCC's deal with Lend Lease complies with the law. On the face of it, the deal does not comply with the LGA and raises questions on possible actions in the Equity Division, given there are already intimations on general, punitive and exemplary damages should the deal fall over.

I find it extraordinary that while DLG acted with immediacy when required to send a delegate to the Ryde Council meeting to check on who attended and who did not, DLG now is saying it is impotent and cannot apply the same degree of urgency as our guardian to protect us from predations of up to \$200 million. Why is it that DLG cannot/will not apply at least the same degree of urgency in relation to the dire and critical circumstances on which I and others have asked for your immediate action?

That is, you are indicating DLG is prepared to stand by and let the RCC GM conclude and sign a deal immediately before local government elections, being keenly aware of the trenchant opposition to that deal and knowing that, on the face of it, he and RCC have broken the law in so doing. And as a result of DLG's inaction, allowing them to continue to do so with seeming impunity. And to then stand by and let Ryde residents sort out an avoidable mess. It would seem our guardian has dropped the ball. And this against a background of rumblings on strange relations between unions and builders and developers and politicians and...

Not good enough!

I request that, as a matter of the utmost urgency, DLG send a delegation to RCC to review all aspects of the Civic Precinct Project documentation. And in the mean time to – at the very least – request that RCC stay all negotiations with Lend Lease and others until that review has occurred.

Sincerely

Warwick Cooper

From: Grahame Gibbs [<mailto:Grahame.Gibbs@dlg.nsw.gov.au>]
Sent: Wednesday, 1 August 2012 10:21 AM
To: Warwick Cooper
Subject: RE:

Dear Mr Cooper

Thank you for your emails of 26 and 30 July. Generally the Division aims to respond to correspondence within four weeks. However I note your request for an urgent response. The Division is keenly aware of the level of community concern over the proposed development. However as I mentioned to you in our phone conversation last week, neither the Division nor the Minister are empowered under the Local Government Act to step in and direct the General Manager. The GM is responsible to the elected council.

In regard to the other matters raised in your emails, you would appreciate that the Division will require time to assess these allegations and provide you with a response.

Grahame Gibbs

Manager

Investigations & Performance

Division of Local Government, Department of Premier & Cabinet | Locked Bag 3015, Nowra NSW 2541

e: grahame.gibbs@dlg.nsw.gov.au | p: 4428 4130 | f: 4428 4199 | <http://www.dlg.nsw.gov.au>

From: Warwick Cooper [<mailto:warwick.cooper@dlg.nsw.gov.au>]
Sent: 31 July 2012 3:49 PM
To: Grahame Gibbs
Subject: FW:

Grahame
As discussed
Warwick

From: Warwick Cooper [[mi](mailto:warwick.cooper@dlg.nsw.gov.au)]
Sent: Monday, 30 July 2012 8:48 PM
To: 'dlg@dlg.nsw.gov.au'
Cc: 'John Mahony'; 'Ivan Petch'; Salvestro-Martin Jeff; 'Philip Peake'
Subject:

EXTREMELY URGENT

TO EMAIL dlg@dlg.nsw.gov.au

ATTENTION: Mr ROSS WOODWARD, CHIEF EXECUTIVE, LOCAL GOVERNMENT

C.C. Mr STEVE ORR, DEPUTY CHIEF EXECUTIVE, LOCAL GOVERNMENT

Mr Woodward

I am deeply concerned at your lack of response to my email of 26 July (below), in which I alerted you to significant apparent breaches by Ryde City Council (RCC) and its General Manager (GM) of the Local Government Act – of which you are the guardian – and asked for your urgent intervention to protect Ryde residents from RCC's predations.

On information supplied to us, it seems that RCC/GM have breached LGA sections 55, 377(1h,i), 400H, 429, 429A and 430 in a deal with Lend Lease that could expose Ryde ratepayers to expenditure and debts of up to \$200 million. Our very deep concerns on that deal are outlined below.

We are particularly concerned that RCC appears to be acting in direct contravention to the Act's PPP and capital expenditure review provisions and in direct contravention to the Act by granting the GM authority to sign a legally enforceable agreement, particularly one that he has negotiated unilaterally and in camera.

It has been relayed to us that, despite having had his services terminated by resolution of a duly constituted RCC meeting on 23 July, the GM on his return from holidays has advised that he intends to conclude the deal.

We ask that, as a matter of extreme urgency and utmost priority, you immediately

- Instruct RCC/GM to
 - a) immediately stop all GM's negotiations with Lend Lease and other parties interested in the Ryde Civic Precinct Development (RCPD)
 - b) stop GM's access to all RCPD documentation
 - c) stand down the GM until the recision motion on his sacking is heard on or before 14 August
- Instruct RCC that in the light of the apparent breaches referred to above and below, RCC stay all proceedings concerning the RCPD until a proper and independent inquiry is undertaken
- Launch a structured and transparent inquiry with clear terms of reference to determine whether actionable breaches have occurred as we believe and, if so, how they were enabled and by whom and on what motivation and what steps are need to avoid recurrence.

I look forward to your reply at your earliest possible opportunity.

Sincerely

Warwick Cooper

From: Warwick Cooper [r____]
Sent: Thursday, 26 July 2012 10:17 AM
To: 'dlg@dlg.nsw.gov.au'
Cc: 'John Mahony'; 'Clr. Ivan Petch'; 'Salvestro-Martin Jeff'; 'Philip Peake'
Subject: FW:

URGENT

TO EMAIL dlg@dlg.nsw.gov.au

ATTENTION: Mr ROSS WOODWARD, CHIEF EXECUTIVE, LOCAL GOVERNMENT

C.C. Mr STEVE ORR, DEPUTY CHIEF EXECUTIVE, LOCAL GOVERNMENT

Mr Woodward

As anchor of Ryde Concerned Citizens Association and in consort with kindred community organisations and supporting Ryde councillors, I ask that you, today, launch an immediate and thorough review of what we and our legal representatives believe is an illegal and unsustainable deal being perpetrated by Ryde City Council with Lend Lease – a highly questionable deal being done behind closed doors and in the face of overwhelming resident opposition.

Our concerns include but are not limited to our views that the deal

- is unsustainable, which is why the banks and insurers are not involved and why council is borrowing \$35 million to give to Lend Lease (that is a 'piddling' government utility, to quote Alan Jones, is lending ratepayers' money to an international building giant)
- exposes residents to 130 per cent debt to assets if it falls over – i.e. rate rises/loss of services and amenities... or a bankrupt council
- is illegal in that it breaks provisions of the Local Government Act. It does not comply with DLG Guidelines and the Local Govt Act, specifically Regulation 400H and the associated requirements for a PPP. A member of your staff (Marilyn) and Cllr Salvestro-Martin have discussed this issue at some length and I understand that Marilyn has been able to now conclusively see that the GM Ryde has constructed and manufactured the circumstance to avoid additional scrutiny that this deal would be subjected to had it been deemed a PPP. Interesting isn't it that the GM originally deemed it a PPP then quickly sought Council approval to ensure it was no longer a PPP. I appreciate that your staff have difficulty seeing all this detail as the GM Ryde is only providing that detail and the context of detail he wants your organisation to be aware of. Marilyn has indicated that as a minimum Ryde GM has not conducted a Capital Expenditure Review and I applaud your staff for identifying yet another deficiency in this process.
- puts residents' exposure in real terms to the order of \$200 million, given that the civic land to be gifted to Lend Lease – 70 per cent of the civic precinct - has been valued at well more than \$100 million and the rubbery - and, importantly, untested - figures supplied by Lend Lease and the RCC GM are clearly well understated across the board and don't allow for over-runs, unstable geology or the drainage and like threats the buildings pose to the hundred and hundreds of residents down the hill on top of which the twin towers are to be perched.

Please note there is an absence of transparency here, with the GM and Mayor selectively disseminating and at times only issuing information to councillors who support the proposal, and peddling obfuscatory propaganda and downright lies in council-funded brochures widely-circulated throughout the Ryde community.

Councillors are only allowed access to the financials under strictly controlled circumstances. We understand none of the opposing councillors have been given copies of the contracts.

The misinformation is not limited to Ryde. For example, I corrected your Sonya's assertion that the deal had been in the making since 2005 i.e. was well-tested. Not so. While the concept of a replacement for Ryde Civic centre has been discussed for years, tenders were called in November 2011 and, importantly NOT ONE RESPONDANT satisfied the criteria. This subsequent shonky deal has been cobbled together in the last few months behind closed doors.

- raises very deep concerns over the fiscal and fiduciary competence and responsibilities of the players. Lend Lease recently was fined \$54 million by the US Federal Court for what the Deputy Director of the FBI described as systematic and audacious fraud, mainly against public institutions (a matter widely reported in Australian and US media); the RCC GM reportedly left a \$50 million debt at Parramatta council and reportedly left the National Trust technically insolvent and seeking government assistance.

We are not aware of ANY due diligence checks by RCC on Lend Lease, a company convicted of systematic and audacious fraud, mainly against public institutions.

- is being done behind closed doors, (against COAG and Local Government Act requirements – i.e. council is breaking the law, as we've been advised by our lawyers, including a QC): they are not listening to the more than 3000 residents who complained in writing nor to the overwhelming majority of residents who are deeply concerned at
 - a) our loss of financial equity and
 - b) council's lack of consultation and transparency, and
 - c) lamentable lack of financial responsibility with our money

For example upwards of 60 residents – including financiers, town planners, engineers and demographers – spoke against the deal at the last two council meetings and one for, a pattern at each council meeting at which the deal is raised. (The GM and Mayor fiddle with their laptops or pick their noses and gaze at the ceiling while the residents speak. They will not consider the pragmatic alternative of a \$25 million refit of the current building in which council retains our priceless civic land)

We have letterboxed and liaised extensively and are well-aware of the tsunami of white-hot resident anger in the community; an anger also reflected in the local print media.

- raises deep concerns on conflicts of interest (using the criteria of real, perceived and/or apparent) in that the Electoral Funding Authority records show both Crown International Property Group and Lend Lease are contributors to the NSW Liberal Party and in that the four Liberal RCC councillors vote as a block with two renegade ALP councillors and with the Mayor using his casting vote to progress the deal; conduct against this country's long-standing governance convention that a casting vote be used to maintain the *status quo*
- Is shonky and below standards required for public institutions and ethical business practice

For example, on the Mayor's casting vote, RCC has empowered the GM to immediately and unilaterally and in secret negotiate and sign a legally enforceable agreement BEFORE matters such as building height levels, apartment numbers, traffic solutions, staff relocations and the like have been negotiated and agreed. Unprecedented? Certainly outrageous and imprudent.

- Is being perpetrated against cogent advice and a wealth of local government experience and logic

For example, the six 'good guy' councillors supporting the residents in opposing the deal include four former mayors and collectively have more than 100 years of experience in local government. They have been threatened with the sack by the GM and Mayor and officers from your division have been in the public gallery, presumably in furtherance of that – a matter on which I ask that you explain DLG's conduct.

The benefits?

Lend Lease gets 24-26 storey twin towers with 630 apartments and commercial and retail areas. And estimated profits of \$200 to \$300 million.

We residents get a nicer office for the mayor, 50 fewer seats in a new auditorium, some change rooms, lose a large tract of irreplaceable public land and gain an aircraft hazard and massive traffic chaos in an already clogged Top Ryde City Centre.

Why the rush to finalise? Six weeks out from an election? Why the secrecy?

Mr Woodward, there is a terrible smell.

This whole matter should be stayed immediately and until after the coming local government elections when the newly constituted council will decide on a proper and principled course of action.

Further, the deal's various elements and the conduct of the people involved need to be thoroughly, objectively, independently examined.

Your Sonya advised that DLG didn't have time to troll through council records or newspapers to find out the facts on which our concerns are based (and, clearly a number of her views and assertions were based on misinformation and at variance with the facts: we suspect that others in DLG may also be victims of the RCC GM line).

Be assured that I and my colleagues, councillors, supporters and friends, stand ready to render any assistance you may need to enable you to immediately stay this travesty and launch an investigation into how it has been allowed to occur. And we stand ready to meet you and your officers at your earliest convenience.

So that through your authority and good offices we can regain the pedestal of honourable and decent conduct in the Council of the City of Ryde.

Given the gravity of this situation and the urgency involved, I should be grateful for your advice on DLG's position by return email.

Sincerely

Warwick Cooper

Warwick Cooper

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