



City of Ipswich

**IPSWICH
CITY
COUNCIL**

AGENDA

of the

COUNCIL SPECIAL MEETING

**Held in the Council Chambers
2nd floor – Council Administration Building
45 Roderick Street
IPSWICH QLD 4305**

On Thursday, 27 June 2019
At 9.00 am

The purpose of the meeting is to consider:

1. Riverview Community Centre
2. Disposal of Part of 95A Brisbane Road, Booval described as part of Lot 169 on RP24111 to Swifts Leagues Club Ltd
3. Transfer of Property and Other Assets of Ipswich City Properties Pty Ltd and associated matters
4. Nicholas Street and Union Place Landscaping and Services Completion Works - Nicholas Street Ipswich Resubmission
5. Tender Consideration Plan - Ipswich City Properties Pty Ltd Supplier Agreement Novations to Ipswich City Council
6. Tender Consideration Plan - Appointment of Retail Leasing Agent - Ipswich Central CBD Transformation Project

BUSINESS

- A. OPENING OF MEETING:
- B. WELCOME TO COUNTRY OR ACKNOWLEDGEMENT OF COUNTRY:
- C. OPENING PRAYER:
- D. APOLOGIES AND LEAVE OF ABSENCE:
- E. OFFICERS' REPORTS:
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Doc ID No: A5581439

ITEM: E.1
SUBJECT: RIVERVIEW COMMUNITY CENTRE
AUTHOR: COMMUNITY ENGAGEMENT MANAGER
DATE: 10 JUNE 2019

EXECUTIVE SUMMARY

This is a report concerning the tenure of Riverview Community Centre located at 138 Old Ipswich Road, Riverview on Lot 3 on SP139403.

RECOMMENDATION

That the Interim Administrator of Ipswich City Council resolve:

- A. That the previous decision of Council, as per Item No. 5 of the Governance Committee No.2019(05), 14 May 2019 and adopted at the Council Ordinary meeting of 21 May 2019, be repealed.
- B. That Council (Interim Administrator of Ipswich City Council) assume management of the Riverview Community Centre as an interim operating model, with another public Expression of Interest process to be run again on or before 1 July 2020.

RELATED PARTIES

The current Lessee of the Riverview Community Centre is the Riverview Neighbourhood House Association Inc. and its Lease Agreement is due to expire on 30 June 2019. The current Lessee has been in occupation of the premises for a period of 11 years. In accordance with the terms of the Lease, the Lessee is required to vacate the Premises on or before 30 June 2019.

ADVANCE IPSWICH THEME LINKAGE

Listening, leading and financial management.

PURPOSE OF REPORT/BACKGROUND

The Riverview Community Centre located at 138 Old Ipswich Road, Riverview, described as Lot 3 on SP139403 occupies 6,551 square meters (Attachment 1). The property is improved with an onsite community use building. The purpose of the land is for 'Community, Recreational and Neighbourhood Centre'.

In accordance with Council's Community Centre Operating Model Policy (Attachment 2), on 2 March 2019, Ipswich City Council ('Council') opened a Request for Expression of Interest (REOI) for the tenure and management of the Riverview Community Centre ('the Centre'). The intention of the REOI was to establish a partnership with a community organisation whose services aligned with the strategic intent of Council to facilitate the provision of quality social and community outcomes.

Applications to the REOI closed on 2 April 2019 and attracted a total of three (3) expressions of interest. Each response was evaluated by a Panel of Council representatives and a successful respondent was identified. (Attachment 3).

At the Ordinary Council meeting of 21 May 2019, Council resolved:

- A. That Council (Interim Administrator of Ipswich City Council) resolve pursuant to section 236(2) of the *Local Government Regulation 2012* (the Regulation) that the exceptions under sections 236(1)(b)(ii) of the Regulation apply to the disposal of the leasehold interest located at 138 Old Ipswich Road, Riverview on Lot 3 on SP139403 ("the land"), by way of a leasehold arrangement between Council and Ipswich YUPI Program Inc. for a consideration sum of \$1.00 pa ex GST, if demanded.
- B. That Council (Interim Administrator of Ipswich City Council) enter into a lease with Ipswich YUPI Program Inc. ("the tenant") for a period of three (3) years with an option period of an additional three (3) years.
- C. That the Chief Executive Officer be authorised to negotiate and finalise the terms of the Lease to be executed by Council and to do any other acts necessary to implement Council's decision in accordance with section 13(3) of the *Local Government Act 2009*.

As a result of the above Council resolution, the Community Engagement Branch began conversations with the successful respondent and provided them with a draft lease agreement and management agreement to review and consider.

At the same time, the current managing organisation and associated community members/organisation wrote several pieces of correspondence to the Interim Administrator articulating their concern about the Council resolution.

Upon further consultation with the community and stakeholders, the Interim Administrator regards Council assuming management of the facility and operations of the centre as the preferred interim model, with another public Expression of Interest process to be run again on or before 1 July 2020.

RISK MANAGEMENT IMPLICATIONS

Legal

The REOI documentation clearly outlines that Council has absolute discretion with regard to the REOI process and, further, that Council does not need to provide any reasons under the REOI for any decision it may make. Accordingly, Council does not have any legal obligation to

the successful respondent until such time as a lease agreement and management agreement is executed. This has not occurred.

The REOI process undertaken to select a respondent organisation for the tenure and management of the Centre was undertaken in line with the sound contracting principles articulated in section 104(3) of the *Local Government Act 2009*, specifically, the process was conducted transparently, open to a number of parties and was accountable. The repeal of the previous decision of Council could be perceived as being inconsistent with that process.

Policy

The recommendations of this report could be perceived to be inconsistent with Council's Community Centre Operating Model Policy (Attachment 2), which articulates:

"The operating model for Council-owned Community Centres will be a partnership with a third party community organisation whose purpose aligns with the strategic intent of Council to manage the daily operations of the relevant Council Community Centre (the Centre).

The partnering organisation will be selected through an expression of interest process on the basis of its relevance to local community needs and its ability to address key selection criteria."

However, as Council assuming management of the Riverview Community Centre is an interim operating model, with another public Expression of Interest process to be run again on or before 1 July 2020, this perceived inconsistency is marginal.

Reputational

The REOI process undertaken to select a respondent organisation for the tenure and management of the Centre was in line with the sound contracting principles articulated in section 104(3) of the *Local Government Act 2009*, specifically, the process was conducted transparently, open to a number of parties and was accountable. There may be some reputational risk for Council in repealing a resolution to enter into lease with the successful respondent, specifically with the third party community organisations who operate in this sector and may be considering future partnerships with Council.

FINANCIAL/RESOURCING IMPLICATIONS

In order for Council to assume management of the facility and operations of the Centre, the following resourcing is being recommended. Four (4) resources are proposed in order to comprehensively manage the Centre:

- Riverview Community Centre Director;
- Riverview Community Centre Community Development Officers (x2); and
- Riverview Community Centre Administrative Officer.

Riverview Community Centre Director

This position will be held by Council's Community Development Coordinator. This position will provide strategic leadership for the Centre and will be responsible for the development and implementation of a policy and procedure document suite to govern the operations of the Centre.

Riverview Community Centre Community Development Officers (x2)

These positions will be held by two Council Community Development Officers. These positions will work collaboratively and be responsible for the operations and activation of the Centre. These positions will work to ensure that service provision to the local community is maintained and is responsive to community needs and best practice community development methodologies.

Riverview Community Centre Administrative Officer

This position is not able to be filled within the current resourcing of the Community Development Team and will need to be sourced outside of the Community Development Team. This position would be responsible for the administrative aspects of the Centre. That is, managing the reception desk, taking enquiries, etc.

LEGAL/POLICY BASIS

The repeal of Council's decision, as per Item No. 5 of the Governance Committee No.2019(05), 14 May 2019 and adopted at the Council Ordinary meeting of 21 May 2019, is consistent with Council's Governance Policy as it formalises Council's decision-making process thereby ensuring the decision being made is done in a rational, informed, ethical and transparent fashion.

COMMUNITY AND OTHER CONSULTATION

Council approached organisations through a REOI process to establish a partnership that will facilitate the provision of quality social and community outcomes through the tenure and management of the Centre.

To encourage applicants from the local industry and market, Council advertised the REOI in both the Queensland Times and Courier Mail newspapers and online at LGTenderbox.

At the Ordinary Council meeting of 21 May 2019 Council resolved to enter into a leasehold arrangement with the successful respondent to the REOI process.

As a result of the above Council resolution, the Community Engagement Branch began conversations with the successful respondent and provided them with a draft lease agreement and management agreement to review and consider.

At the same time, the current managing organisation and associated community members/organisation wrote several pieces of correspondence to the Interim Administrator articulating their concern about the Council resolution.

Upon further consultation with the community and stakeholders, the Interim Administrator regards Council assuming management of the facility and operations of the centre as the preferred interim model, with another public Expression of Interest process to be run again on or before 1 July 2020.

CONCLUSION

This is a report concerning the tenure of Riverview Community Centre located at 138 Old Ipswich Road, Riverview on Lot 3 on SP139403. The current Lessee is the Riverview Neighbourhood House Association Inc. and its Lease Agreement is due to expire on 30 June 2019.

In accordance with Council's Community Centre Operating Model Policy (Attachment 2), on 2 March 2019, Council opened a REOI for the tenure and management of the Centre. Each response received was evaluated by a Panel of Council representatives and a successful respondent was identified. (Attachment 3).

At the Ordinary Council meeting of 21 May 2019, Council resolved to enter into a lease agreement with the successful respondent. Upon further consultation with the community and stakeholders, the Interim Administrator regards Council assuming management of the facility and operations of the centre as the preferred interim model, with another public Expression of Interest process to be run again on or before 1 July 2020.

There are legal, policy, reputational and resourcing matters to be considered by Council when determining the recommendations of this report.

ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS

1.	Survey Plan of Lot 3 on SP139403  
2.	Community Centre Operating Model Policy  
3.	REOI Executed Evaluation Report  

Abbey Richards

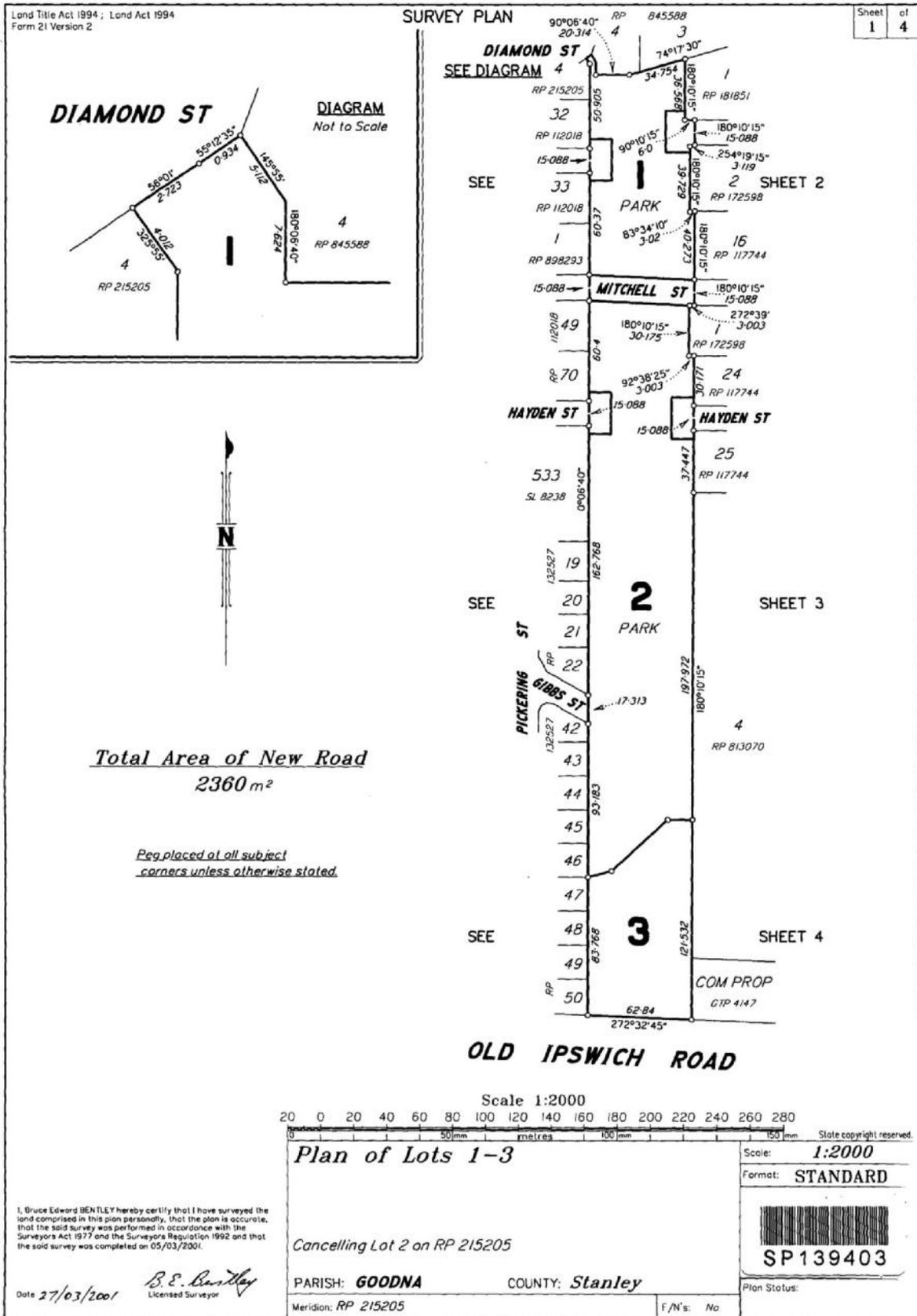
COMMUNITY ENGAGEMENT MANAGER

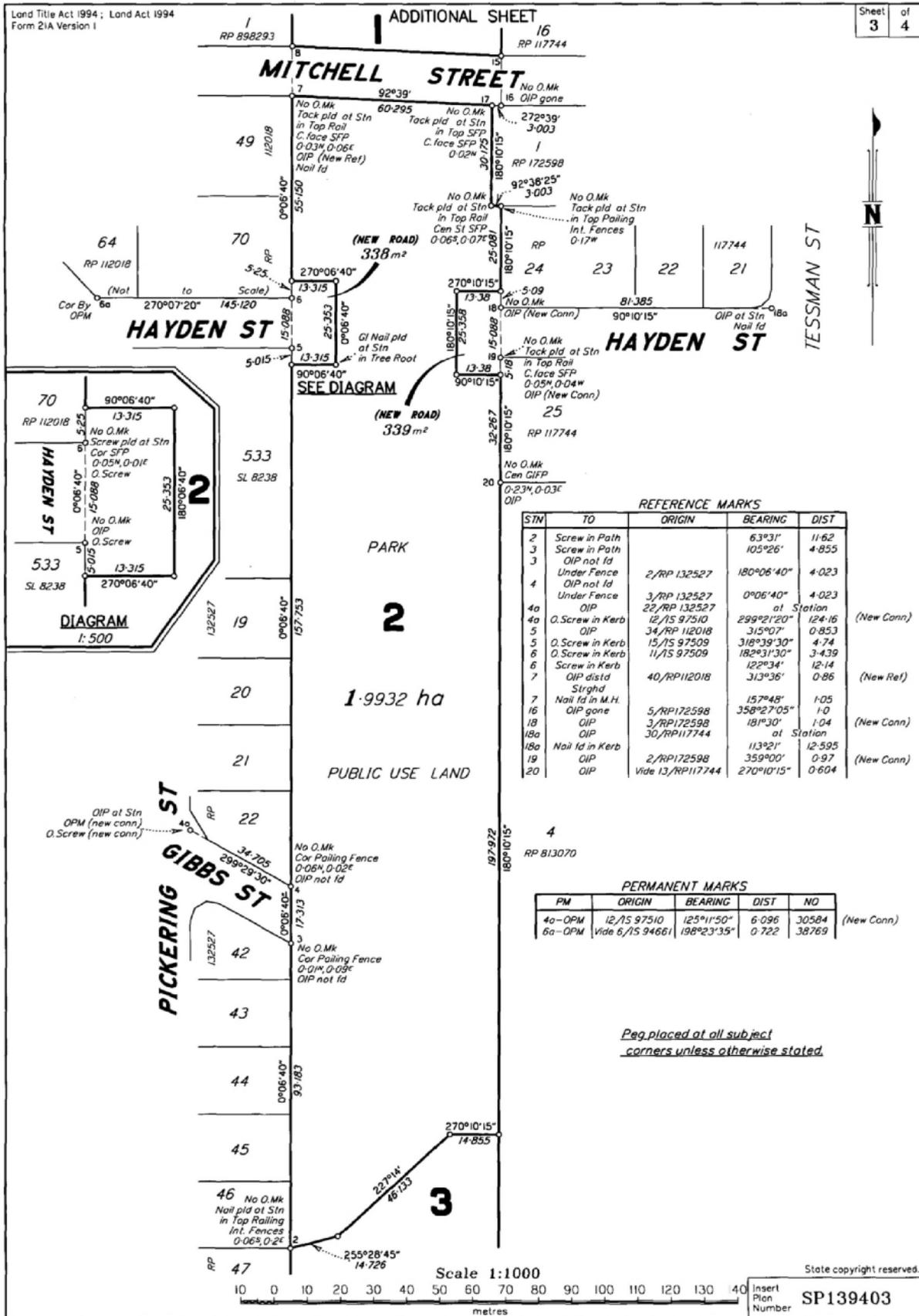
I concur with the recommendations contained in this report.

Ben Pole

GENERAL MANAGER - COMMUNITY, CULTURAL AND ECONOMIC DEVELOPMENT

"Together, we proudly enhance the quality of life for our community"





	COMMUNITY CENTRE OPERATING MODEL POLICY	DOCUMENT NO: A5127824
1.1 Objectives: The objective of this policy is to define the operating model of community centres owned by Ipswich City Council.		
1.2 Regulatory Authority: <i>Local Government Act 2009 (Qld)</i> <i>Local Government Regulation 2012 (Qld)</i> Ipswich City Council - Advance Ipswich Ipswich City Council - Corporate Plan 2017-2022		
1.3 Policy Statement: The purpose of this policy is to outline how Ipswich City Council invests in community outcomes through utilising a standard operating model for Council-owned community centres. This policy establishes clear expectations around Council responsibilities, sets out a comprehensive approach to governance and accountability and ensures that community centres owned by Council provide: <ul style="list-style-type: none">- infrastructure that allows a diverse range of community groups to meet, engage and build social networks and a shared community identity;- a 'safe' place for the delivery of social services that meet the needs of targeted community groups; and- programmed learning and life experiences that enhance the community's capacity, pride and resilience.		
1.4 Operating Model for Council-owned Community Centres The Operating Model for Council-owned Community Centres will be a partnership with a third party community organisation whose purpose aligns with the strategic intent of Council to manage the daily operations of the relevant Council's Community Centre (the Centre). The partnering organisation will be selected through an expression of interest process on the basis of its relevance to local community needs and its ability to address key selection		

criteria.

The partner will:

- base its local operations at the Centre and run additional programming, in exchange for a low-cost lease and direct access to the community
- have its own funding source to deliver its targeted outcomes
- address the majority, if not all, of the Centre's key priorities under its own operating model
- have current insurances and registrations for the programs it delivers (including a Public Liability Insurance Policy)
- bring a level of expertise and experiential learnings that would optimise the social outcomes of the Centre

Council will:

- meet costs associated with the purchase and maintenance of the building, furniture, equipment, hold relevant insurances for the building and cover utility costs associated with the Centre

Council may:

- supplement programming where the partner's core service deliverables are not broad enough to meet the needs of the community. This may be a function of Council's existing outreach programming (e.g. library services), community development activity or volunteer coordinated programs and may be offset by external revenue sources (subject to funding availability)

The Centre's governance structure will take the form of an overarching Steering Committee, consisting of Council representatives, representatives from the partnering organisation, and when considered necessary or beneficial, strategic Community Leaders. The Steering Committee's role in the Centre's operation includes, but is not limited to, providing:

- direction and leadership, setting the vision for the Centre and continually refining goals and success measures to align with emerging community needs; and
- ongoing oversight of performance, e.g.
 - performance against agreed Key Performance Indicators
 - escalated issues relating to the operations of the Centre.
- strategic direction, including:
 - suitability of services and programming to meet changing community needs
 - ongoing appropriateness of Key Performance Indicators
 - what the balance should be between service provision, programming and community use of the facility

1.5 Roles and responsibilities:

All council officers responsible for managing Council-owned Communities Centres and developing and maintaining agreements as described in this policy.

1.6 Policy Author:

The Community Engagement Manager is responsible for the maintenance of the policy.

Date of Review: 11 October 2018

Date of Council Resolution: 27 February 2018

Committee Reference and Date: Policy and Administration Advisory Committee No. 2018(01) of 13 February 2018

No. of Resolution: 2

Date to be reviewed: 11 October 2020

EVALUATION REPORT

13257

**Request for Expression of Interest
138 Old Ipswich Road, Riverview
Community Centre Partnership
Opportunity**

Prepared by: Abbey Richards
Community Engagement Manager
11/04/2019
V1.0

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1.0 GENERAL OVERVIEW

1.1 Policy Background

Council's Community Centre Operating Model Policy (adopted on 27 February 2018), details Council's approach to the management and operation of Council-owned community centres:

"The operating model for Council owned community centres will be a partnership with a third party community organisation whose purpose aligns with the strategic intent of Council to manage the daily operations of the relevant Council's community centre (the Centre).

The partnering organisation will be selected through an Expression of Interest process on the basis of its relevance to local community needs and its ability to address key selection criteria."

1.2 Background to Request for Expression of Interest

Ipswich city continues to experience population growth and social complexity. Ipswich continues to experience specific forms and of place based challenge as well as unique opportunities for strength, growth and change. Ipswich City Council (Council) is committed to implementing and overseeing community infrastructure and hence is opening this call for proposals for management of the Riverview Community Centre (the Centre) at 138 Old Ipswich Road, Riverview. The current lease of the Riverview Community Centre expires on the 30th of June 2019 and as such, Council is conducting an open call for applications from suitable community organisations to occupy and manage the Centre.

The Centre will:

- Allow for a diverse range of community members and groups to meet, engage and build social networks.
- Provide a safe and inclusive environment for the delivery of social services that meet the unique needs of the community.
- Develop, design, implement and evaluate the delivery of programmed community activities, programs, projects and events as well as facilitate learning and life experiences that enhance the quality of life for all members of the community.

The Partner will be responsible for driving targeted social change through its planned program of works which may be supplemented by Council's engagement and community development activities. The Partnership will deliver to the partner:

- An opportunity to be part of a strong social change agenda across Ipswich City.
- A place of operation in Riverview that is central to its key target audience under a pepper corn lease arrangement.
- Ongoing engagement with surrounding communities to inform and deliver on its strategic agenda.
- Partnership with Ipswich City Council and access to demographic data and other relevant information.

A Steering Committee (the Committee) will be established for the Centre and will comprise of the Partner, Council and may also include representatives from key services providers, government stakeholders, and identified community leaders. The Committee will play a strategic role in the management of the Centre.

1.3 Purpose of the Request for Expression of Interest

As owner of the Centre, Council offers a partnership opportunity for a community organisation as defined by *The Local Government Regulation 2012*, whose purpose and services align with the strategic intent of Council to facilitate the provision of quality social and community outcomes for the residents of Riverview and surrounding areas.

In conducting this REOI, Council's objectives are to:

- a) Establish an innovative partnership model to utilise the Centre to its' full potential, which includes providing services and community development programs to meet the current and future unique needs of Riverview and surrounding area.
- b) Partner with a community organisation as defined by *The Local Government Regulation 2012* to create an inclusive meeting place that facilitates the delivery of appropriate community services, engagement and community capacity building programs, which foster a sense of community, pride and well-being.
- c) Partner with a for a community organisation as defined by *The Local Government Regulation 2012*:
 - i. An evidence based approach to engagement and service delivery.
 - ii. A proven record of successfully delivering appropriate services that address the unique needs of a community such as Riverview.
 - iii. The necessary secured funding, organisational framework and resources to implement service delivery.
 - iv. Strong community engagement practices and working relationships with all levels of government, other services providers and across all sectors of the community.

1.4 Request for Expression of Interest

A Request for Expression of Interest was issued on Saturday 2 March 2019 (Attachment 1). The Request for Expression of Interest included the below table of timeframes:

Date	Milestone
Saturday 2 March 2019	Release of Request for Expression of Interest
Wednesday 20 March 2019	Last day for clarification requests
Tuesday 2 April 2019	Closing time for Expressions of Interest
Monday 15 April 2019	Anticipated date for selection of Partner
Friday 31 May 2019	Lease negotiations conclude and lease is finalised by all parties
Monday 1 July 2019	Anticipated Lease Start and Tenancy Begins

Three (3) responses to the Request for Expression of Interest were received.

1.5 Evaluation Panel

The Evaluation Panel consisted of 3 members and a chairperson as detailed in **Table 1**.

Table 1: Evaluation Committee			
Position	Name	Position Title	Department
Chair	Abbey Richards	Community Engagement Manager	Arts, Social Development and Community Engagement Department
Member	Brent Downes	Community Development Coordinator	Arts, Social Development and Community Engagement Department
Member	Sarah Sheehy	Community Grants Officer	Arts, Social Development and Community Engagement Department
Member	Tina Longford	Native Title and Cultural Heritage Officer	Works, Parks and Recreation Department

2.0 EVALUATION

2.1 Responses to the Expression of Interest

2.1.1 Responses to the Expression of Interest Received

The following 3 responses were received:

1. Multicultural Australia;
2. Ipswich YUPI Program Inc; and
3. Riverview Neighbourhood House Association Inc.

2.1.2 Late Responses

There were no late responses to this Request for Expressions of Interest.

2.2 Evaluation Process

The Evaluation Panel met on Wednesday 10 April 2019. The Evaluation Panel first considered conflicts of interest. The following was noted:

- Abbey Richards – was previously on the panel which evaluated and awarded management of the Redbank Plains Community Centre to Multicultural Australia; has had no interactions with the Ipswich YUPI Program Inc; and has had interactions with and has knowledge of the historical management of the Riverview Community Centre by Riverview Neighbourhood House Association Inc.
- Brent Downes – currently has responsibility for the ongoing relationship with Multicultural Australia as the current manager of the Redbank Plains Community Centre; has had no interactions with the Ipswich YUPI Program Inc; and has had interactions with and has

knowledge of the historical management of the Riverview Community Centre by Riverview Neighbourhood House Association Inc.

- Sarah Sheehy - has had no interactions with the Ipswich YUPI Program Inc; has had interactions with and has knowledge of the historical management of the Riverview Community Centre by Riverview Neighbourhood House Association Inc; and has knowledge and awareness of the management of Multicultural Australia as the current manager of the Redbank Plains Community Centre.
- Tina Longford – has had no interactions or knowledge of either Ipswich YUPI Program Inc, Multicultural Australia or Riverview Neighbourhood House Association Inc.

The Evaluation Panel collectively determined that the above does not represent an actual conflict interest nor would any member personally or professionally benefit from the award of this partnership to any particular respondent. The Evaluation Panel did not consider any of knowledge or interactions detailed above would impede the objective assessment of the EOI responses and all Evaluation Panel members would proceed with the assessment of responses.

The Evaluation Panel then read, analysed and scored the responses systematically.

The scoring of responses was based on the degree of achievement by the Respondent to the requirements. Scoring was completed using a scale from zero (0) to five (5) with zero (0) being the lowest and five (5) being the highest. The five (5) point scale for general application throughout the evaluation process was as follows:

Note: Decimal points or half points were used in the scoring of evaluation criteria.

Score	Description
0	Has not demonstrated any level of understanding, capacity and has no prior experience.
1	Has demonstrated a minor level of understanding, capability and has no prior experience.
2	Has demonstrated a satisfactory level of understanding, capability and has some demonstrated experience.
3	Has demonstrated a sound level of understanding, capability and has demonstrated some experience.
4	Has demonstrated a high level of understanding, capability and has demonstrated experience.
5	Has demonstrated a significant level of understanding, capability and demonstrated significant experience.

2.3 Evaluation Criteria Assessment

As detailed in the Request for Expression of Interest the evaluation criteria is listed below. Each response was evaluated against these criteria:

1. Criteria 1 – Innovative partnership model proposed

How would your organisation structure an innovative partnership with Council that:

- Utilises the Riverview Community Centre and other local community infrastructure.
- Fosters sound working relationships with organisations, service providers or not-for-profit organisations by working collaboratively to deliver services and community programs to improve the life outcomes.

- Allows your organisation to deliver services and activities at the Centre in keeping with the strategic intent of Council to facilitate the provision of quality social and community outcomes for the residents of Riverview and surrounding suburbs.

Provide examples of where your organisation has utilised community facilities and worked collaboratively with a group of stakeholders to achieve agreed outcomes.

2. Criteria 2 – Alignment of organisation’s purpose with Council’s strategic intent for the Centre

Explain the purpose of your organisation (illustrating its alignment to Council’s strategic intent for the Centre), use of data in planning service delivery and responsibilities of the staff who will be assigned to work from the Centre, include:

- Organisational aims and objectives and how they align to Council’s strategic intent.
- Organisational structure.
- How your organisation utilises, gathers and shares data to inform service delivery.
- Your organisation’s adopted Work Place Healthy and Safety, Multicultural Access and Equity and Complaints Management policies and procedures.

3. Criteria 3 – Financial stability and administrative capacity to enter into a three (3) year partnership with Council

Demonstrate your organisation’s financial stability and administrative capacity to enter into a three (3) year partnership with Council. Your response should reference and provide evidence of your organisation’s:

- Financial statements for the past three (3) financial years Certified by an Accountant.
- Current Annual Report.
- Current Corporate Plan and/or Operational Plan.
- Short statement detailing your organisation’s funding source stability.

4. Criteria 4 – Demonstrated experience in delivering inclusive programs that respond to community need, build resilience or educate targeted community groups

Demonstrate your organisation’s experience in delivering inclusive programs that respond to community need, build resilience or educate targeted community groups. Include:

- Examples of past programs which you have developed, designed, implemented and evaluated.
- Examples of how you have assessed and continue to assess community needs and design programs to meet these needs.
- Evidence of the efficacy and success of your community development programs including for example; quantitative data, anecdote, partner’s or stakeholder’s statements, letters of support.

Provide examples of how you have ensured that your programs have been and continue to be safe and inclusive for different and diverse members of communities.

5. Criteria 5 – Demonstrated strong engagement practice, and quality of reputation with other key stakeholders and the community

Demonstrated strong practice, and quality of reputation with other key stakeholders and the community. Include:

- Examples of how your organisation has engaged with community in the past.

Position: Native Title and Cultural
Heritage Officer

Date

11/04/2019

Approved / not approved:

Name: Caroline McMahon

Signature:



Position: Chief Operating Officer

Date:

11/04/2019

Comments

4.0 ATTACHMENTS

Attachment	Description	Document
1	Request for Expression of Interest	<u>Request for Expression of Interest</u>
2	Evaluation Matrix	<u>Evaluation Matrix</u>

Doc ID No: A5618278

ITEM: E.2

SUBJECT: DISPOSAL OF PART OF 95A BRISBANE ROAD, BOOVAL DESCRIBED AS PART OF LOT 169 ON RP24111 TO SWIFTS LEAGUES CLUB LTD

AUTHOR: BUSINESS ACCOUNTING AND ASSET MANAGER

DATE: 25 JUNE 2019

EXECUTIVE SUMMARY

This is a report concerning the proposed disposal by Ipswich City Council (Council) of part of 95A Brisbane Road, Booval described as part of Lot 169 on RP24111 to the Swifts Leagues Club Ltd ACN 010 165 045 [ABN 58 010 165 045] (Swifts).

RECOMMENDATION

That the Interim Administrator of Ipswich City Council resolve:

- A. That part of Council-owned land at 95A Brisbane Road, Booval (part of Lot 169 on RP24111), being approximately 1.624 hectares, as identified in Attachment 1 as "Proposed Land Disposal" (the Land) to the report by the Business Accounting and Asset Manager dated 20 June 2019, is surplus to Council's future requirements.
- B. That the disposal of the Land and the improvements of the Land is a disposal of a valuable non-current asset.
- C. That pursuant to section 236(3) of the *Local Government Regulations 2012* (Qld) (Regulations), that the exemption available under section 236(1)(b)(ii) of the Regulations applies to the disposal of the Land and the improvements on the Land to Swifts as a 'Community Organisation' (as defined Schedule 8 of the Regulations).
- D. That the Land and improvements on the Land can be disposed of other than by tender or auction as required by section 227 of the Regulations.
- E. That Council request Swifts Leagues Club to prepare a proposed master plan for the site that reflects their proposal and undertake appropriate community consultation to satisfy Council that their proposal has sufficient community support.
That subject to Council being satisfied with the outcome of the community consultation process and accordingly determining that the sale to Swifts Leagues Club is in the best interest of the community, that Council sell the Land and the improvements on the Land to Swifts Leagues Club Ltd at a purchase price equal to the market value of the Land (including the market value of the improvements on

the Land), as determined by a registered valuer, in compliance with section 236(3) of the Regulations.

- F. That the Chief Executive Officer be authorised to negotiate and finalise the terms of the sale contract to be executed by Council and to do any other acts necessary to implement Council's decision in accordance with section 13(3) of the *Local Government Act 2009*.

RELATED PARTIES

Swifts Leagues Club Ltd (Swifts) may fund the purchase of the property through their own financial resources however there is a possibility they may be funded by a third party to purchase the Land from Ipswich City Council (Council). The President of the club has advised that they are currently in discussions with potential suitors who may be willing to fund the purchase.

ADVANCE IPSWICH THEME LINKAGE

Managing growth and delivering key infrastructure

PURPOSE OF REPORT/BACKGROUND

Cameron Park is Council freehold land located at 95A Brisbane Road, Booval and described as Lot 169 on RP24111 (5.729 ha). Swifts have a twenty (20) year lease with two (2) x ten (10) year options for Lease A in Lot 169 on RP24111 (1.119ha), which commenced on 6 September 2001 for the occupation of the land and facility as a sports and recreation club.

A report was originally presented to Council in relation to Cameron Park – Future Use of Parkland and Facilities on the 29 January 2019. The recommendation was for the disposal of the land directly related to the sports and recreation club to Swifts Leagues Club Ltd at market value. A further report was submitted to Council in May that repealed the previous decision of Council on the 29 January 2019, as there were a number of unresolved issues regarding the future use of the property and Cameron Park.

The proposal will result in Council surrendering 1.624 hectares (subject to the final survey plan) of current recreational land. The remaining land area of Cameron Park will be 4.105 hectares (subject to the final survey plan).

Communication and discussions with Swifts have continued in relation to the operations of the property, where a number of these issues have now been addressed.

The three key issues are:

- a) What are the options?

In essence, there are four options available:

- 1) Council can sell the property to Swifts, as has been requested by Swifts
- 2) Council can publicly offer the property for sale, with Swifts being the incumbent tenant as per their current lease

- 3) Council can retain the property, undertake any necessary upgrades to the property, and Swifts continue as is
- 4) Council and Swifts may reach agreement for the lease to be terminated, Swifts cease operations and Council either publicly offer the property for lease to other entities or demolish the buildings and return the area to parkland

Option 2 is considered to be unrealistic. The property requires significant capital investment (further discussed below) which would not be recouped by any realistic rental stream. It is therefore highly unlikely to be a commercial proposition for any third party. The most likely purchaser would be Swifts, and option 1 provides a more effective approach for Council to undertake that transaction.

Options 3 and 4 are both possible, and are further discussed below in the context of exploring option 1; selling the property to Swifts as they have requested.

b) Whether Council can lawfully sell the property to Swifts

This issue was addressed in the 29 January 2019 report to Council. The information presented in that report clearly showed that Swifts are a Community Organisation and Council is legally able to sell the property directly to Swifts, under section 236(3) of the *Local Government Regulations 2012* (Qld) (Regulations), that the exemption available under section 236(1)(b)(ii) of the Regulations applies to the disposal of the Land and the improvements on the Land to Swifts as a 'Community Organisation' (as defined Schedule 8 of the Regulations).

To further ensure that Council is able to sell the land to Swifts, it has been recommended to Council that the sale be made conditional on the following:

- I. Subject to a Council resolution being made by Council's Interim Administrator giving effect to the sale (once the Interim Administrator is satisfied the sale meets the requirement of the Regulations and subject to a satisfactory outcome of the community consultation process) ; and
- II. Swifts are to undertake community consultation and satisfy Council that the transaction is for the benefit of the community and has community support as demonstrated through the community consultation process.

c) Whether Council should sell the property to Swifts.

This is a more complex question, with all the relevant key information either not being available or appropriately presented in the previous two reports to Council to enable this to be adequately and transparently addressed by Council.

There are two aspects to this question:

- What is the best financial outcome for Council? and;
- (More importantly) What is the best community outcome?

The best financial outcome for Council is to sell the property.

Council has recently undertaken a condition assessment of the buildings, which highlighted over \$1 million worth of refurbishment work to be undertaken over the next 10 years and an additional \$800,000 of upgrades that are required to be undertaken on the kitchen and air-conditioning to keep the current operational requirements of the building. This expenditure however, is to maintain the current configuration of the building which does not meet the club's desired configuration for a growing club (this is discussed further below).

Council receives annual rent of over \$16,000 from Swifts, plus rates of approximately \$16,000. This revenue stream will not be sufficient to recoup over time the capital costs that Council would need to incur as identified in the condition assessment report.

An independent professional valuation of the property indicates a market value in the order of \$1.4m. In summary, sale of the property represents a financially better result for Council (and hence ratepayers) in the order of \$2.4m over retaining the property.

Whilst the financial analysis is important, the more critical question is what is the best community outcome.

Swifts have obtained independent advice from professional club management consultants that verifies that the current configuration of the Cameron Park facilities are inappropriate for the ongoing successful operation of a sports and recreation club with the objectives of delivering community services and facilities. A substantial reconfiguration of the premises is needed for the club to be able to continue to operate successfully.

This requires investment that the club agrees is beyond the scope and responsibility of Council. However, without security of property title, the club is unable to secure funding support needed to make the necessary investment to deliver a contemporary sports and recreation club. Even Council undertaking the \$1.8 million refurbishment cited in the condition assessment report will not meet the club's future operating needs. This is why option 3 above is not a feasible choice for Council.

Closure of the club would result in termination of the facilities and services delivered for Ipswich residents at the Cameron Park facility as well as termination of the financial support of junior rugby league through proceeds from the venue operations. This is not a favourable community outcome.

A key issue raised with Council in regard to community outcomes is whether Swifts would be seeking to substantially increase the number of gaming machines at the site

as part of the reconfiguration. Council does not regulate gaming machines; that is the role of the State Government through the Office of Liquor and Gaming Regulation and the *Gaming Machine Act 1991* and the *Gaming Machine Regulation 2002*.

That state regulatory regime includes the need for a 'community impact statement' to be prepared for any increase of 20 gaming machines or more. The Office of Liquor and Gaming Regulation has issued Guidelines in regard to these matters; in essence a substantial community consultation exercise would be required to be undertaken by Swifts before any significant increase in gaming machines would be possible. This is a matter for the state government regulators to determine at the time, although Council would be asked for its views as part of any decision by the Office of Liquor and Gaming Regulation.

Swifts representatives advised the Interim Administrator at a meeting on Thursday 20 June 2019 that there is no intention by the club to significantly increase the number of gaming machines as part of the reconfiguration at this stage, and they understood the need for extensive community engagement prior to this position changing.

Another issue raised with Council is, once sold to Swifts, how the community can be assured the site remains as a sport and recreation facility in the future. This is entirely within the decision-making powers of the Council. Any proposed change in use would require a development application under the Ipswich planning scheme and would be subject to the provisions of the planning law and framework. The site is currently zoned recreation and Council would have full authority to refuse any development application for any material change in use such as retail or commercial buildings.

In addition there is a recommendation to Council that any sale contract should contain a restriction on the buyer from selling the property to any "person" that is not a Community Organisation", and that any transferee is to enter into a deed of covenant obliging them to obtain a similar covenant from any further transferee.

FINANCIAL/RESOURCE IMPLICATIONS

If Council adopts the recommendation in this report, the operational and legal costs associated with the sale of property will form part of the project budget, and the net financial benefit to Council is estimated to be in the order of \$2.4 million.

RISK MANAGEMENT IMPLICATIONS

There are significant financial and operational risks associated with continuing with the maintenance and refurbishment of the current facility as it presently stands. If the property is sold to Swifts, these risks would be transferred to that organization.

The risk of the property, if sold, being subsequently changed from community services club to other uses (such as residential, retail or commercial developments) is within the control of Council through the development application process and the current zoning of the land as recreation.

The risk of the property, if sold, being converted to a more significant gaming machine venue is within the control of the state government through the Office of Liquor and Gaming Regulation, including the need for a community impact statement that Council would be invited to contribute to.

LEGAL/POLICY BASIS

This report and its recommendations are consistent with the following legislative provisions:

Land Act 1994

Planning Act 2016

Local Government Act 2009

Local Government Regulation 2012

COMMUNITY AND OTHER CONSULTATION

The report that previously repealed the sale to Swifts recommended that community consultation be undertaken for any future decisions to ensure transparency and accountability. Given this is public land and Swifts have requested to purchase the site, it is imperative that the management and development of the land aligns with the strategic focus for the area and supports the community's needs into the future. Swifts will be required to supply information outlining the future plans and how the club will continue to develop sport and recreation services for the benefit of the community.

Council may undertake community consultation to ensure that the proposed sale and future plans for the club by Swifts are supported by the community, or at Council's request Swifts will be required to undertake, manage and finalise the community consultation process.

CONCLUSION

Council's ongoing ownership and leasing of the facility to Swifts carries significant financial and operational risk from a future capital investment perspective. The current arrangements are unfavourable to Council and the Ipswich community from a financial perspective.

The current facilities do not meet the requirements of a contemporary sports and recreation club and reconfiguration to meet these demands is beyond the scope and role of the Council to deliver.

The proposal to dispose of the land and its associated improvements offers Council the opportunity to remove the financial burden of the maintenance of the facility, and more importantly will allow a local community sporting group to deliver a more contemporary facility and continue to provide positive community benefits.

ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS

1.	Survey Plan 
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Shane Gillett

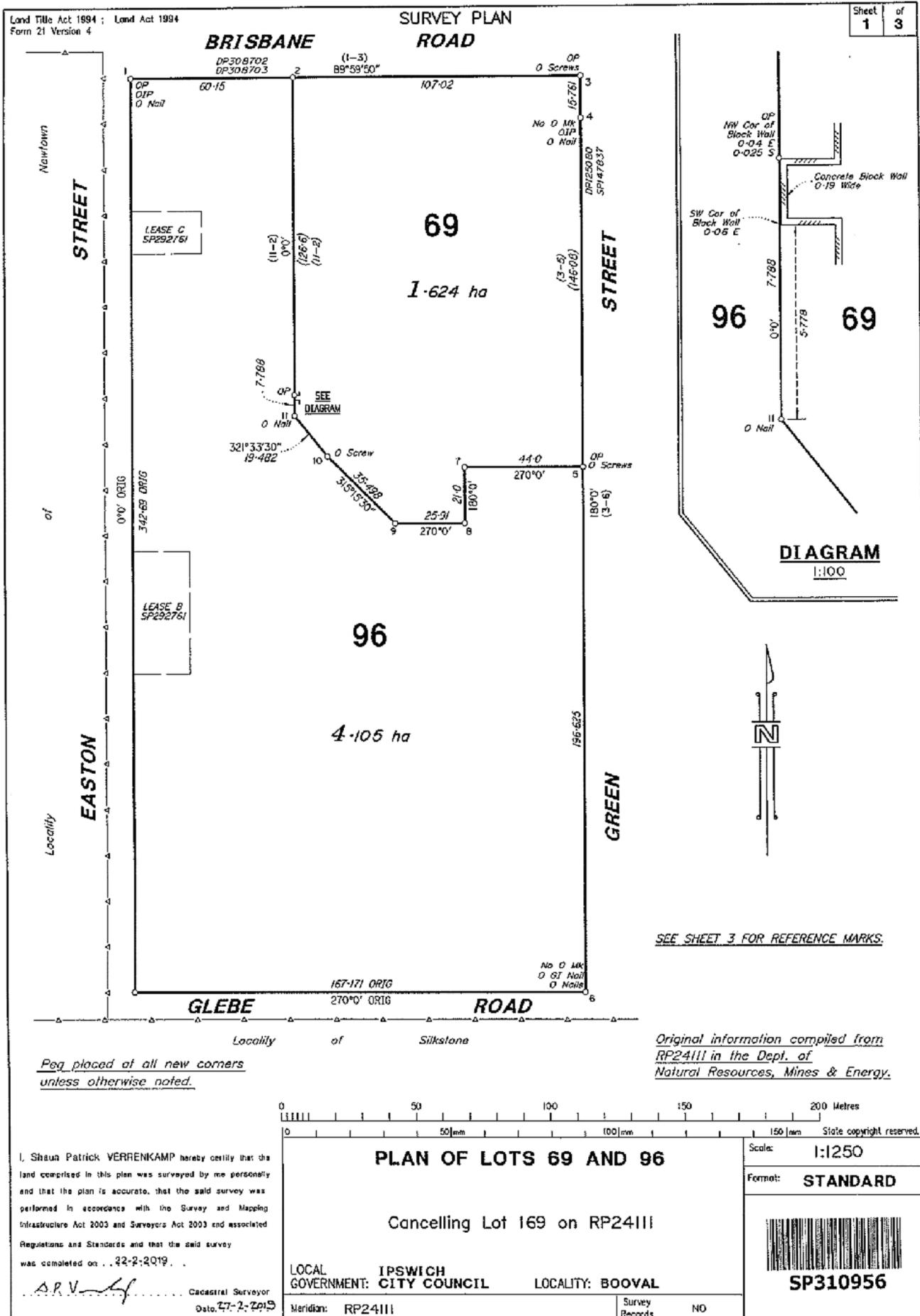
BUSINESS ACCOUNTING AND ASSET MANAGER

I concur with the recommendations contained in this report.

Charlie Dill

GENERAL MANAGER - INFRASTRUCTURE AND ENVIRONMENT

“Together, we proudly enhance the quality of life for our community”



<p>Land Title Act 1994 : Land Act 1994 Form 21B Version 1</p> <p style="text-align: center;">(Dealing No.)</p>	<p style="text-align: center;">WARNING : Folded or Mutilated Plans will not be accepted. Plans may be rolled. Information may not be placed in the outer margins.</p> <p style="text-align: right;">Sheet 2 of 3</p>																											
<p>1. Certificate of Registered Owners or Lessees.</p> <p>I/We <u>IPSWICH CITY COUNCIL</u></p> <p>.....</p> <p>.....</p> <p>(Names in full)</p> <p>* as Registered Owners of this land agree to this plan and dedicate the Public Use Land as shown hereon in accordance with Section 50 of the Land Title Act 1994.</p> <p>* as Lessees of this land agree to this plan.</p> <p>Signature of * Registered Owners * Lessees</p> <p>.....</p> <p>.....</p> <p>* Rule out whichever is inapplicable</p>	<p>5. Lodged by</p> <p>.....</p> <p>(Include address, phone number, reference, and Lodger Code)</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th colspan="2">Existing</th> <th colspan="3">Created</th> </tr> <tr> <th>Title Reference</th> <th>Description</th> <th>New Lots</th> <th>Road</th> <th>Secondary Interests</th> </tr> <tr> <td>11285053</td> <td>LOT 169 ON RP24111</td> <td>69 & 96</td> <td>_____</td> <td>_____</td> </tr> </table> <p style="text-align: center;">ENCUMBRANCE LEASE ALLOCATIONS</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th>Lease</th> <th>Lots to be Encumbered</th> </tr> <tr> <td>718851905 (Lease C on SP292761)</td> <td>96</td> </tr> <tr> <td>719167074 (Lease B on SP292761)</td> <td>96</td> </tr> </table> <p style="text-align: center;">ADMINISTRATIVE ADVICES ALLOCATIONS</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th>Dealing No.</th> <th>Type</th> <th>Lots to be Encumbered</th> </tr> <tr> <td>ASI4039V</td> <td>HERITAGE SITE QLD HERITAGE ACT 1992</td> <td>96</td> </tr> </table> <p style="text-align: center;">LEASE A ON SPI47837 IS TO BE EXTINGUISHED PRIOR TO THE REGISTRATION OF THIS PLAN.</p> <p style="text-align: center;">REINSTATEMENT REPORT</p> <ul style="list-style-type: none"> • This survey agrees with previous Deposited Plans, DP308702 and DP308703. • Brisbane Road was fixed by the original marks found at stations 1 and 3. The distance from station 1 to station 3 is within 1mm of deed. • Green Street was fixed by the original marks found at stations 3, 4, 5 and 6. The distance from station 3 to station 6 is 15mm more than deed. The angle from 1-3-6 is only 10° off the original right angle and agrees with previous surveys. 	Existing		Created			Title Reference	Description	New Lots	Road	Secondary Interests	11285053	LOT 169 ON RP24111	69 & 96	_____	_____	Lease	Lots to be Encumbered	718851905 (Lease C on SP292761)	96	719167074 (Lease B on SP292761)	96	Dealing No.	Type	Lots to be Encumbered	ASI4039V	HERITAGE SITE QLD HERITAGE ACT 1992	96
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ASI4039V	HERITAGE SITE QLD HERITAGE ACT 1992	96																										
<p>2. Planning Body Approval.</p> <p>* hereby approves this plan in accordance with the : %</p> <p>Dated this day of</p> <p>..... #</p> <p>* Insert the name of the Planning Body. % Insert applicable approving legislation. # Insert designation of signatory or delegation</p>	<p>Development Approval: No Development Approval Required</p> <p>9. Building Format Plans only. I certify that : * As far as it is practical to determine, no part of the building shown on this plan encroaches onto adjoining lots or road. * Part of the building shown on this plan encroaches onto adjoining * lots and road</p> <p>Cadastral Surveyor/Director * Date * Initial words not required</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%;">69 & 96</td> <td style="width:50%;">Por 169</td> </tr> <tr> <td style="text-align: center;">Lots</td> <td style="text-align: center;">Orig</td> </tr> </table> <p>10. Lodgement Fees :</p> <table style="width:100%;"> <tr> <td>Survey Deposit</td> <td style="text-align: right;">\$</td> </tr> <tr> <td>Lodgement</td> <td style="text-align: right;">\$</td> </tr> <tr> <td>..... New Titles</td> <td style="text-align: right;">\$</td> </tr> <tr> <td>Photocopy</td> <td style="text-align: right;">\$</td> </tr> <tr> <td>Postage</td> <td style="text-align: right;">\$</td> </tr> <tr> <td>TOTAL</td> <td style="text-align: right;">\$</td> </tr> </table>	69 & 96	Por 169	Lots	Orig	Survey Deposit	\$	Lodgement	\$ New Titles	\$	Photocopy	\$	Postage	\$	TOTAL	\$											
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<p>3. Plans with Community Management Statement :</p> <p>CMS Number : Name :</p>	<p>4. References :</p> <p>Dept File : Local Govt : Surveyor : 13865/2</p> <p>7. Orig Grant Allocation :</p> <p>a. Passed & Endorsed :</p> <p>By : Shaun Patrick Verrenkamp Date : 17-2-2019 Signed : <i>S.P.V.</i> Designation : Cadastral Surveyor</p>																											
<p>11. Insert Plan Number</p>	<p style="text-align: right; font-size: 1.2em;">SP310956</p>																											

Land Title Act 1994 ; Land Act 1994
Form 21A Version 1

ADDITIONAL SHEET

Sheet **3** of **3**

REFERENCE		MARKS		
STN	TO	ORIGIN	BEARING	DIST
1	OIP	RP108081	269°59'50"	0-60.4
1	O Nail in Conc Footpath	DP308702	356°23'	1-53
2	Screw in Conc Footpath		3°02'	1-425
3	O Screw in Conc Footpath	DP308702	39°41'	1-642
3	O Screw in Conc Footpath	DP308702	64°05'	3-005
4	OIP	SP147837	88°40'	1-453
4	O Nail in Kerb	DP308702	169°05'20"	26-097
5	O Screw in Kerb	SP308702	82°27'	4-413
5	O Screw in Kerb	DP308702	276°0'	16-743
6	O GI Nail in Conc	SP232761	168°46'50"	0-334
6	O Nail in Kerb	SP147837	178°16'30"	3-09
6	O Nail in Kerb	SP147837	83°22'	5-55
7	Screw in Kerb		66°14'	2-189
9	Screw in Conc Footpath		177°45'	3-435
10	O Screw in Kerb	DP308702	93°02'30"	14-695 <i>new conn</i>
11	O Nail in Conc Footpath	DP308702	217°55'30"	10-12 <i>new conn</i>

State copyright reserved.

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Plan
Number **SP310956**

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ITEM: E.3

SUBJECT: TRANSFER OF PROPERTY AND OTHER ASSETS OF IPSWICH CITY PROPERTIES PTY LTD AND ASSOCIATED MATTERS

AUTHOR: FINANCE MANAGER

DATE: 16 JUNE 2019

EXECUTIVE SUMMARY

This is a report concerning the transfer of property and other assets of Ipswich City Properties Pty Ltd (**ICP**) and other associated matters to Ipswich City Council (**Council**), in preparation for the wind up of ICP. Other associated matters include:

- the operation of ICP's retails assets, redevelopment activities and asset valuations;
- preparation of property transfer documents, indemnities and stamp duty exemptions;
- the novation of supplier agreements and related quote or tender consideration plans;
- Ranbury leasing agreement;
- Ministerial Direction for the disposal of leasehold interests;
- approval under the *Statutory Bodies Financial Arrangements Act 1982 (SBFA)* for a performance guarantee; and
- Deed of Release concerning the transfer of other assets, settlement for property and other assets, compensations, reimbursements, liabilities and debt forgiveness.

At the ordinary Council meeting of 16 October 2018, the Interim Administrator resolved to endorse the winding up and ultimate deregistration of ICP and the integration of the ICP assets and operations into Council.

Following the settlement for the transfer of the property and other assets of ICP via a reduction in the loan between Council and ICP, this report recommends the write-down (forgiveness) of the residual balance of that loan. This is anticipated to be \$24.9 million and is materially within the \$78.7 million of losses outlined by McGrathNicol in their March 2019 report. All reimbursements, payments, transfer, write-downs etc... cited in the recommendations below reflect costs that were identified as part of the McGrathNicol report. None of these arrangements in terminating ICP represent any new expenditure not previously recognised by McGrathNicol.

RECOMMENDATION/S

That the Interim Administrator of Ipswich City Council resolve:

- A. That the Chief Executive Officer be authorised to negotiate and finalise the terms of the Deed of Release to be executed by Council and to do any other acts necessary to implement Council's decision in accordance with section 13(3) of the *Local Government Act 2009*.
- B. That the total valuation of the property assets of Ipswich City Properties Pty Ltd being \$27,795,000 be accepted by Council for the purposes of the property transfers.
- C. That the Chief Executive Officer be authorised to negotiate and finalise the terms of all agreements, deeds, indemnities or documents ("all Documents"), for the transfer to Ipswich City Council of the property (both real property and personal property) belonging to Ipswich City Properties Pty Ltd with a total cumulative value of \$27,814,565.78 (including chattels of \$19,565.78), and for Council to execute all Documents and to do any other acts necessary to implement Council's decision in accordance with section 13(3) of the *Local Government Act 2009*.
- D. That Council note that the decision of the Office of State Revenue in regards an exemption from Stamp Duty under corporate reconstruction remains outstanding and that the approval of the exemption does not impact Council's intention to approve and enact the transfer of property and other assets of Ipswich City Properties Pty Ltd before 30 June 2019.
- E. That Council reimburse Ipswich City Properties Pty Ltd, as outlined in the Deed of Release, for costs incurred in relation to planning, design, engineering and construction of the retail assets of Ipswich City Properties Pty Ltd to the value of \$2,300,127.95.
- F. That Council reimburse Ipswich City Properties Pty Ltd, as outlined in the Deed of Release, for costs incurred in relation to planning, design, engineering and construction works that were intended to be acquired by Council under a development agreement to the value of \$16,875,657.28.
- G. That Council note the request for an approval under the *Statutory Bodies Financial Arrangements Act 1982* for the provision of a performance guarantee in relation to the Crown lease for the Bremer Street Ramps has been lodged with the Department of Local Government, Racing and Multicultural Affairs.
- H. That Council pay \$4,699,035.11 to Ipswich City Properties Pty Ltd in accordance with the Deed of Release as the GST component of the property and other assets transfer.

- I. That the anticipated loan repayment of \$750,000.00 by Ipswich City Properties Pty Ltd, be noted.
- J. That subsequent to all the reductions in accordance with recommendations C, E, F and I and in accordance with the Deed of Release excluding clause 6, the balance of the loan between Ipswich City Council and Ipswich City Properties Pty Ltd at close of business on 27 June 2019, estimated to be \$24,925,371.15, in accordance with clause 6 of the Deed of Release, be written-down to zero.
- K. That subject to the loan between Ipswich City Council and Ipswich City Properties Pty Ltd being written-down to zero, the loan agreement between Ipswich City Council and Ipswich City Properties Pty Ltd be terminated.
- L. That the Chief Executive Officer be authorised to negotiate and finalise the terms of any other agreement, deed, indemnity or document associated with or in conjunction to the transfer of the other assets of Ipswich City Properties Pty Ltd, in accordance with the Deed of Release, to be executed by Council and to do any other acts necessary to implement Council's decision in accordance with section 13(3) of the *Local Government Act 2009*.

RELATED PARTIES

Ipswich City Properties Pty Ltd
Ranbury Management Group Pty Ltd
Ranbury Property Services Pty Ltd

ADVANCE IPSWICH THEME LINKAGE

Strengthening our local economy and building prosperity

PURPOSE OF REPORT/BACKGROUND

Subsequent to Council's endorsement of the winding up of ICP, McGrathNicol were engaged to support and coordinate with Council officers the actions required to transfer the property, other assets and operations of the ICP to Council, allowing the subsequent wind up of ICP.

In addition to Council's Legal Service Branch, King and Wood Mallesons (**KWM**) were engaged to advise Council and Clayton Utz were engaged to advise ICP.

In this report Council and ICP may collectively be referred to as **the Group**.

Deed of Release

A Deed of Release (**Attachment 1**) has been prepared to finalise financial and related matters between ICP and Council, including residual asset transfers, any residual liabilities of ICP, settlement transactions and Council's forgiveness of certain debt owed by ICP to Council (detailed further in this report).

Payments for the transfer of property and other assets (excluding GST) is proposed under the Deed of Release to be via a reduction to the loan account between Council and ICP.

Valuations

Jones Lang LaSalle Advisory Service Pty Ltd (**JLL**) were engaged to provide valuations for the property assets of ICP. The current land and buildings of the Ipswich City Square Shopping Centre, the Commercial Hotel site (Murphys Pub) as well as 2 Bell Street have been valued for the purpose of transfer between related parties. The collective valuation of these ICP assets totals \$27.8 million and remains unchanged from the valuation undertaken to support the 2017-2018 financial statements. A separate independent valuation by Council was not undertaken in this instance and Council will need to rely upon the ICP valuation for the purposes of the transfer.

Property Transfers

The relevant transfer documents and sale contracts have been prepared for the transfer of ICP properties including leasehold land, Crown leasehold land, freehold land and option deeds. There are also indemnities in favour of the State of Queensland and Queensland Rail, required in relation to the transfer of property assets as well as for retail tenancies. These transfer documents have been reviewed by both Council officers and McGrathNicol. A schedule of documents requiring signature has also been prepared to ensure that all required actions for the transfer of the ICP properties are completed.

Stamp Duty

An application has been lodged with the Office of State Revenue (**OSR**) for an exemption from Stamp Duty under the corporate reconstruction provisions. Advice from KWM indicates that the transfer of property from ICP to Council, in the manner proposed by the Deed of Release, will likely meet the exemption requirements, however this is yet to be assessed by the OSR. The absence of a decision from the OSR on the exemption, prior to the transfer of the properties, is not considered an impediment to the transfer.

If there was any stamp duty obligation, this would rest with Council. This risk was obviously not quantified in the March 2019 McGrathNicol report.

Work In Progress

ICP has recognised \$2.3 million of work in progress costs in relation to planning, design, engineering and construction of its retail assets. This includes a net \$1.1 million for the demolition and stabilisation of the Commercial Hotel (former Murphy's Pub) site after consideration of the total cost to complete the project and initial assessment of possible market value at completion.

The costs on these retail properties of ICP were undertaken with the visibility of Council, contribute to the broader CBD redevelopment and relate to those properties that are to be transferred. Therefore it is considered appropriate for Council to reimburse ICP for these costs (refer clause 3(a) of the Deed of Release). This is premised on Council's decision to wind up ICP at this time which will not permit ICP to complete these works nor subsequently generate an appropriate return from this expenditure.

Construction Work In Progress - Development Inventory

ICP has incurred \$16.9 million of costs in relation to planning, design, engineering, demolition and construction works which were ultimately intended to become or contribute to assets of Council. This includes expenditure on the proposed administration building, library, civic square and other associated assets.

This expenditure was incurred by ICP on the basis of the Development Agreement between ICP and Council for the civic space, library and carpark, staged approvals under this agreement and an intended variation for the Administration Building, after Council resolved to own the building vs lease it and that these costs would be met (reimbursed) by Council (refer recommendation C of the report by the Executive Support Officer dated 23 January 2018 concerning CDB Redevelopment to the City Management, Finance and Community Engagement Committee of 23 January 2018).

On this basis, and in conjunction with the decision by Council to transfer ICP properties to Council, it is appropriate for Council to reimburse ICP for these costs (refer clause 3(b) of the Deed of Release).

Tender Consideration Plan - Novation of Supplier Agreements

To provide a smooth transition and to maintain and preserve the supplier relationships, for the transfer of ICP properties, the existing agreements between ICP and its suppliers, for both the operations and maintenance of the ICP retail properties as well as ICPs redevelopment activities, are required to be novated to Council.

A quote or tender consideration plan in accordance with section 230 of the *Local Government Regulation 2012* has been prepared as a separate report for Council's consideration and adoption, to enable the redevelopment project and retail operations to continue on a timely basis and to ensure all intellectual property, knowledge, rights, warranties etc... are transferred to Council

Ranbury – Appointment as Leasing Agent

ICP has engaged Ranbury Property Services Pty Ltd to advise and act as a leasing agent for the retail and commercial areas of the ICP assets. To leverage the benefits and effort already undertaken, subject to a separate quote or tender consideration plan, Council may consider appointing Ranbury Property Services Pty Ltd to continue in this role.

The separate report and plan, for consideration by Council, outlines the independent market assessment and proposal process undertaken as part of the appointment.

Ministerial Exemption for the Disposal of Leasehold Interests

Owing to the unique nature of negotiations for retail and commercial tenancy, and to enable Council to achieve the objectives of its leasing strategy, Council may choose to seek a Ministerial Exemption under Section 236(1)(f) of the *Local Government Regulation 2012* in relation to the disposal of a valuable non-current asset by means of a lease. An exemption would allow Council to then lease the retail and commercial tenancies of Ipswich City Square

and 2 Bell Street without the need to put each tenancy space out to separate tender or auction. The leasing plan and strategy will outline how Council and its leasing agent will ensure maximum value for Council and the decision and approval process to ensure transparency and accountability in the leasing process.

A submission seeking such an exemption is being prepared by Council's Coordination and Performance Department.

SBFA Approval for a Performance Guarantee

An approval under the SBFA has been requested from the Department of Local Government, Racing and Multicultural Affairs (the **Department**). This is required for the provision of a performance guarantee (Bank Guarantee) in relation to the Crown lease for the Bremer Street Ramps that are attached to the Ipswich City Square Shopping Centre. Council will request the guarantee be provided by the Queensland Treasury Corporation (**QTC**).

The Department has indicated that this approval is unlikely to be received prior to the proposed settlement of the ICP assets. Whilst advice has been received that the transfer (settlement) of the property can occur, the registration of title on this lease asset will be delayed until the guarantee can be provided. This may also impact on the registration of the title on the property to which the Bremer Street ramps are attached. As mentioned, the delay in the registration of the title does not impact on the settlement (ownership) of assets.

GST

Notwithstanding that the settlement for the transfer of ICP properties and other assets under the Deed of Release is via a reduction of the loan account between ICP and Council, both Council and ICP will separately remain responsible for their GST obligations in relation to the transfer transactions.

The Deed of Release does not permit the GST value attributed to the transfer transactions to reduce the loan account between ICP and Council. The GST value is to be paid by Council to ICP as a cash amount. The estimate of the GST component of the transfer transactions is \$4,699,035.11.

Loan Repayment

Prior to the application of clause 6 of the Deed of Release, ICP intends to repay \$750,000.00, or other amount as appropriate, of surplus cash to Council. The surplus cash is due to GST credits claimable by ICP. Given the requirement for Council to settle, in full, the transfer of the property and other assets with ICP, it was not considered appropriate to offset the GST cash payment against the estimated GST credits of ICP.

Debt Forgiveness

Following the settlement of ICP properties, the reimbursement of Work In Progress and the Construction Work In Progress – Development Inventory, via a reduction to the loan account between ICP and Council, as well as receiving the loan repayment, the estimated balance of the loan from Council to ICP will be \$24,925,371.15.

Previous Council decisions to build and own the new administration building and library and to develop a significant portion of land as civic space, have impacted on ICP's ability to earn future revenues, in the form of land sales and development profits. In turn this impacts on ICP's ability to make further repayment against the loan account.

In light of the decision to wind up ICP at this time and to transfer the properties to Council at their current market value, ICP will not have the assets or capacity to earn revenues to repay the remaining balance. It is appropriate for Council to write down the remaining balance of its loan receivable from ICP and terminate the loan agreement.

The remaining balance of the loan to be written off by Council is materially within the \$78.7 million losses outlined by McGrathNicol in their recent report.

The total cost of ICP activities, the subject of the McGrathNicol report from March 2019, was assessed as approximately \$78.7 million. The forgiveness of the residual balance of the loan between ICP and Council does not materially increase that assessment. The forgiveness of the loan is a non-cash intra-Group transaction (as are the property and other asset transfers) and has no impact on the consolidated results of Council and its Controlled Entities.

Loan balance as at 18 June 2019		\$72,665,722.16
less settlement for property assets	Recommendation C	\$27,814,565.78
less settlement for work-in-progress assets	Recommendation E	\$2,300,127.95
less settlement for development inventory assets	Recommendation F	\$16,875,657.28
less loan repayment (from surplus cash)	Recommendation I	\$750,000.00
Value of loan to be written down (forgiven)		\$24,925,371.15

Members Voluntary Liquidation

Following the transfer to Council of the ICP properties, other assets and operations, Council, via the shareholders representative, may then give further consideration to placing ICP into Members Voluntary Liquidation.

FINANCIAL/RESOURCE IMPLICATIONS

As a wholly owned subsidiary of Council, the transfer of the ICP properties, other assets and operations to Council will have a minimal impact on the combined revenues and expenses of ICP and Council (**the Group**). While there be impacts on Council's operating surplus and balance sheet, however the cash flows impact for the Group are minimal and the ultimate wind up of ICP will save Council costs in the long term.

The delivery of the Ipswich Central CBD Transformation Project including the construction of the new administration building and library is included in Council's 2019-2020 Budget and Long Term Financial Forecast at a total cost of approximately \$201.5 million.

As outlined in this report, settlement for the transfer of the properties (\$27.8 million) and reimbursement of Construction Work in Progress and Work in Progress (approximately \$19.2 million) will be by way of a reduction against the loan between ICP and Council. The residual value of \$24.9 million of loan account between ICP and Council will be forgiven.

RISK MANAGEMENT IMPLICATIONS

Should the exemption from Stamp Duty under corporate reconstruction not be approved by the OSR, Council will be liable to pay Stamp Duty on the value of the transfer transactions. The value of the Stamp Duty, if payable, is estimated to be \$1.6 million. This may increase if the OSR consider the WIP and WIP to be dutiable.

Council is proposing to acquire the assets and operations of ICP and in doing so creates a potential for exposure to unknown liabilities resulting from the assets and operations of ICP. Under the Deed of Release Council agrees to pay the operational liabilities arising after 18 June 2019 (typically in the form of invoiced costs). For other non-operational liabilities, the Deed of Release does not require Council to pay such liabilities but it may elect to do so.

The loan between Council and ICP is limited to a maximum value of \$75 million (the **loan cap**) under the most recent amended SBFA approval of the Under Treasurer, dated 2 June 2015. This amended approval lapses on 30 June 2019 at which time the loan cap reverts to its value under the original SBFA approval of \$50 million.

Should the transfer of properties and reimbursement of construction costs incurred by ICP (approximately \$47 million in total) not occur before 30 June 2019 nor be reduced against the loan account, Council would be in breach of the original SBFA approval.

LEGAL/POLICY BASIS

This report and its recommendations are consistent with the following legislative provisions:
Local Government Act 2009
Local Government Regulation 2012

COMMUNITY AND OTHER CONSULTATION

No specific community consultation has been undertaken in relation to the transfer of ICP's properties, other assets and operations back into Council.

CONCLUSION

The operations and activities of ICP has been the subject of great public interest in recent years. The transfer of the ICP properties, other assets and operations back into Council and the subsequent wind up of ICP enacts Council's resolution of October 2018. It is also considered a necessary step in the delivery of the Ipswich Central CBD Transformation Project and the revitalisation of the Ipswich CBD.

ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS

1	Deed of Release  
---	---

Jeffrey Keech
FINANCE MANAGER

I concur with the recommendations contained in this report.

Sean Madigan
GENERAL MANAGER - COORDINATION AND PERFORMANCE

I concur with the recommendations contained in this report.

Andrew Knight
GENERAL MANAGER - CORPORATE SERVICES

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Deed of release

Ipswich City Properties Pty Ltd ACN 135 760 637
ICP

Ipswich City Council
ICC

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Deed of release

Date

Parties **Ipswich City Properties Pty Ltd ACN 135 760 637** of 45 Roderick Street, Ipswich, Queensland 4305 (**ICP**)

Ipswich City Council of 45 Roderick Street, Ipswich, Queensland 4305 (**ICC**)

Background

- A. ICP is transferring all its Assets to ICC under various Documents.
- B. ICC is paying value to ICP for the various Assets to be transferred as per consideration set out in the Documents.
- C. ICC is to reimburse ICP for certain costs that ICP has incurred.
- D. This deed is being entered into, to finalise financial and related matters between ICP and ICC, including ICC's forgiveness of certain debt owed by ICP to ICC as set out in this deed.

Operative provisions

1. Definitions and interpretation

1.1 Definitions

In this deed:

Assets means all the assets of ICP, extending to and including:

- (a) all real property listed in Schedule 1;
- (b) all personal property;
- (c) ICP IP; and
- (d) goodwill in any business conducted by ICP, including the exclusive right to represent itself as carrying on the business as the successor to ICP,

but not including cash at bank required by ICP to pay its debts as and when they fall due.

Bremer Street Leasehold Tenure means the Bremer Street Ramp - State Leasehold as referred to in 1.2 of Schedule 1.

Business Day means Monday to Friday other than when there is a public holiday in Ipswich.

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Debt means the debt of approximately \$24,925,371.15 as at 27 June 2019 (subject to the terms of this deed).

Discretionary Payment has the meaning in clause 5(c).

Documents means the documents signed at or about the time of this deed to transfer the Assets from ICP to ICC.

Forgiven Debt means the debt forgiven as defined in clause 6(a).

GST Legislation means A New Tax System (Goods and Services Tax) Act 1999.

ICP IP means all Intellectual Property Rights owned by the ICP and the right to take action against any third party for the infringement of any rights relating to those Intellectual Property Rights whether occurring before or after the date of this deed.

Intellectual Property Rights means:

- (a) patents, designs, trade marks and service marks (whether registered or unregistered) and any applications for, or rights to apply for, registration of any patent, design, trade mark or service mark;
- (b) copyright (including copyright in software, websites, databases and advertising and other promotional materials);
- (c) all rights to have information (including trade secrets, know-how, operating procedures and technical information) kept confidential; and
- (d) all other rights or protections having similar effect anywhere in the world.

Non-Operational Liabilities means any liabilities of ICP:

- (a) which are or have been incurred as a consequence of:
 - (i) any default or wrongdoing of ICP under any contract or arrangement, including any liability under any indemnity; and
 - (ii) any negligence or wrongful act or omission of ICP or persons for whom ICP is responsible; or
- (b) in respect of which ICP has insurance and in respect of which the insurance cover responds to meet that liability.

Operational Liabilities means liabilities of ICP which are or have been incurred by ICP in the ordinary course of its business under contracts or arrangements it has entered into in relation to its Assets, including any proposed development or letting of those Assets and extends to any taxation (including GST) liabilities, on the basis any refund or payment due to ICP and paid to ICP as a result of a tax paid by ICC on behalf of ICP, shall be paid by ICP to ICC, but does not include Non-Operational Liabilities.

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Payment means the consideration payable to ICP by ICC under the Documents in the sum of \$27,814,565.78.

1.2 Interpretation

In this deed:

- (a) headings are for convenience only and do not affect interpretation;
- and unless the context indicates a contrary intention:
- (b) an obligation or liability assumed by, or a right conferred on, 2 or more parties binds or benefits all of them jointly and each of them severally;
 - (c) the expression "person" includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
 - (d) a reference to any party includes that party's executors, administrators, successors and permitted assigns, including any person taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee;
 - (e) a reference to any document (including this deed) is to that document as varied, novated, ratified or replaced from time to time;
 - (f) a reference to any statute or to any statutory provision includes any statutory modification or re-enactment of it or any statutory provision substituted for it, and all ordinances, by-laws, regulations, rules and statutory instruments (however described) issued under it;
 - (g) words importing the singular include the plural (and vice versa);
 - (h) references to parties, clauses, schedules, exhibits or annexures are references to parties, clauses, schedules, exhibits and annexures to or of this deed, and a reference to this deed includes any schedule, exhibit or annexure to this deed;
 - (i) where any term is used in this deed which is defined in the GST Legislation, it will have the same meaning which it bears in the GST Legislation;
 - (j) where a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning; and
 - (k) the word "includes" in any form is not a word of limitation.

2. Asset transfer

- (a) To the extent ICP has not transferred any Assets held by it under any of the Documents, by force of this deed, ICP transfers and assigns to ICC all Assets not otherwise transferred under the Documents.

It is anticipated that Assets not otherwise transferred under the Documents will either be nil or will be limited in scope and value.

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- (b) In respect of the Bremer Street Leasehold Tenure the transfer of lease for \$1 may not have been effected as at the date of this deed and to the extent not effected, shall be effected as soon as practicable thereafter (once the necessary Ministerial approval to transfer can be secured) and each party must do all things to see that that occurs.
-

3. Reimbursement to be effected

- (a) ICC agrees that on 27 June, 2019, it will reimburse ICP an amount of \$2,300,127.95 for the cost of consultancy services and early works services effected in connection with the Assets transferred under the Documents.
- (b) ICC agrees that on 27 June, 2019, it will reimburse ICP an amount of \$16,875,675.28 for the cost of consultancy services and works services effected in connection with the Assets transferred under the Documents and more particularly in connection with a development agreement entered into between ICP and ICC.
- (c) ICP accepts the reimbursements of \$2,300,127.95 and \$16,875,675.28 respectively in full and final satisfaction of all amounts owing by ICC to ICP on account of any works and services provided by ICP to ICC on any account (including under any agreement or arrangement between ICP and ICC).
- (d) ICP acknowledges that it owes a debt to ICC and that the reimbursements referred to in clause 3(a) and 3(b) (other than the cash amount required by ICP to meet its GST liabilities for supplies made by ICP in connection with the reimbursement amounts) will not be made in cash, but rather ICC will make the reimbursements (other than a cash amount required by ICP to meet its GST liabilities for supplies made by ICP in connection with the reimbursement amounts) as and by way of reduction of the debt and the debt shall be reduced accordingly.
-

4. Payment

- (a) ICC will make the Payment to ICP, as and when the Documents require, (expected to be on 27 June, 2019).
- (b) ICP acknowledges that it owes a debt to ICC and that the Payment (other than a cash amount required by ICP to meet its GST liabilities in connection with supplies made by ICP on the transfer of Assets to ICC under the Documents), made need not be made in cash, but rather ICC will make the Payment (other than a cash amount required by ICP to meet its GST liabilities in connection with supplies made by ICP on the transfer of Assets to ICC under the Documents), as and by way of reduction of the debt owed to ICC by ICP and the debt shall be reduced accordingly.
-

5. Operational Liabilities and Non-Operational Liabilities

- (a) ICP and ICC agree that ICC will pay on behalf of ICP and ICC do undertake to pay on behalf of ICP, all the Operational Liabilities of ICP arising on or after 18 June 2019, to the extent that ICP does not have cash to meet those Operational Liabilities.
- (b) In respect of Operational Liabilities that comprise any taxation (including GST) liability paid by ICC on behalf of ICP, any refund or similar payment due to ICP as a
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result of tax paid by ICC on behalf of ICP shall be paid by ICP to ICC, upon receipt and shall be ICC's property.

- (c) In respect of Non-Operational Liabilities, ICC are not required by this deed to pay such liability on behalf of ICP, but may elect to do so (in this deed, **Discretionary Payment**).

6. Debt Forgiveness

- (a) The debt owing to ICC by ICP after the transfer of the Assets under the Documents, the reimbursements referred to in clause 3 and the Payment referred to in clause 4, will be for the purposes of this deed be the **Forgiven Debt**. As at 27 June, 2019 the Forgiven Debt is anticipated to be (more or less) the amount of the Debt.
- (b) ICC forgives and releases ICP from its obligation to pay the Forgiven Debt.
- (c) In consideration of the forgiveness and release in clause 6(b), apart from the obligations of ICC under this deed, ICP releases ICC from all liability and claims, damages, costs and expenses (actual or contingent) on any account, owing, payable or due by ICC to ICP.
- (d) If after the forgiveness and release under clause 6(b), any further amounts are paid by ICC in respect of any amount for Operational Liabilities or a Discretionary Payment, then ICC agrees to forgive and release ICP to pay that amount to ICC.

7. Notices

7.1 How notice to be given

Each communication (including each notice, consent, approval, request and demand) under or in connection with this deed:

- (a) must be given to a party:
 - (i) using one of the following methods (and no other method) namely, hand delivery, courier service or post; and
 - (ii) using the address or other details for the party set out below (or as otherwise notified by that party to each other party from time to time under this clause 6(d)):

ICP

Tenant: Ipswich City Properties ACN 135 760 637
 Address: 45 Roderick Street, Ipswich, Queensland 4305
 Email: steve.bannister-tyrrel@ipswich-commercial.com.au

ICC

Name: Ipswich City Council
 Address: 45 Roderick Street, Ipswich, Queensland 4305
 Email: Jeffrey.Keech@ipswich.qld.gov.au

- (b) must be in legible writing and in English;

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- (c) must be signed by the sending party or by a person duly authorised by the sending party; and
- (d) may be sent by email, at the address set out in clause 7.1(a)(ii).

7.2 When notice taken to be received

Each communication (including each notice, request and demand) under or in connection with this deed is taken to be given by the sender and received by the recipient:

- (a) (in the case of delivery by hand or courier service) on delivery;
- (b) (in the case of prepaid express post sent to an address in the same country) on the second Business Day after the date of posting;
- (c) (in the case of email) at the time it is sent,

provided that:

- (d) if the communication would otherwise be taken to be received on a day that is not a Business Day or after 5.00 pm, it is taken to be received at 9.00 am on the next Business Day.

7.3 Notices sent by more than one method of communication

If a communication delivered or sent under this clause 7 is delivered or sent by more than one method, the communication is taken to be given by the sender and received by the recipient whenever it is taken to be first received in accordance with clause 7.2.

8. General

8.1 Stamp duties

ICC:

- (a) must pay on time all stamp duties on this deed and the transfer of Assets and any related fines and penalties in connection with this deed and the transfer of Assets, the performance of them and each transaction effected by or made under them;
- (b) is authorised to apply for and retain the proceeds of any refund due in respect of stamp duty paid under this clause 8.1.

8.2 Costs

ICC will bear the legal costs and expenses for negotiating, preparing and executing this deed.

8.3 Governing law

This deed is governed by and will be construed according to the laws of Queensland.

8.4 Jurisdiction

- (a) Each party irrevocably submits to the non-exclusive jurisdiction of the courts of Queensland, and the courts competent to determine appeals from those courts,

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with respect to any proceedings which may be brought at any time relating in any way to this deed.

- (b) Each party irrevocably waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, where that venue falls within clause 8.4(a).

8.5 Counterparts

This deed may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes an original of this deed, all of which together constitute one agreement.

8.6 Further acts and documents

ICP and ICC must promptly do all further acts and execute and deliver all further documents required by law to give effect to this deed.

8.7 Severance

If at any time any provision of this deed is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that will not affect or impair:

- (a) the legality, validity or enforceability in that jurisdiction of any other provision of this deed; or
- (b) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this deed.

8.8 Waiver

- (a) Failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, a right, power or remedy provided by law or under this deed by a party does not preclude, or operate as a waiver of, the exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this deed.
- (b) A waiver or consent given by a party under this deed is only effective and binding on that party if it is given or confirmed in writing by that party.
- (c) No waiver of a breach of a term of this deed operates as a waiver of another breach of that term or of a breach of any other term of this deed.

9. GST

9.1 Definitions

The terms "**GST**" and "**GST Act**" have the meanings ascribed to those terms by the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* (as amended from time to time) or any replacement or other relevant legislation and regulations enacted to validate, recapture or recoup tax collected as GST.

Unless expressly stated otherwise, any amounts stated in this deed exclude GST.

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9.2 GST payable

If GST is payable under the GST Act in relation to any supply made by a party (**Supplier**) under this deed, the parties agree that:

- (a) an additional amount will be payable by the party providing consideration for that supply (**Recipient**) equal to the amount of GST payable on that supply; and
- (b) the additional amount is payable at the same time as payment is otherwise due under this deed.

9.3 Reimbursement of costs, expenses and other amounts

If a party is required under this deed to reimburse or pay to the other party an amount calculated by reference to a cost, expense, or an amount paid or incurred by that party, the amount of the reimbursement or payment will be reduced by the amount of any input tax credits to which that party is entitled in respect of any acquisition relating to that cost, expense or other amount.

9.4 Variation

- (a) If the Supplier determines on reasonable grounds, is advised by the Commissioner of Taxation or otherwise becomes aware that the GST payable on a supply made under or in connection with this deed is different to the additional amount paid by the Recipient to the Supplier in accordance with clause 9.2 (if any) in respect of that supply such that:
 - (i) the Supplier is required to pay an amount (or further amount) of GST in respect of that supply; or
 - (ii) the Supplier receives or becomes entitled to receive a refund or credit of the whole or any part of the GST paid by the Supplier in relation to that supply,

the Supplier:
 - (iii) must provide a corresponding refund or credit to the Recipient; or
 - (iv) will be entitled to receive the amount of that variation (including any penalties, interest or other charges levied on, or applied to the Supplier) from the Recipient,

as the case may be.
- (b) For the purposes of calculating further variations under this clause 9.4, any additional amount referred to in clause 9.2 is taken to be amended by the amount of any earlier variation made under this clause.
- (c) Where an adjustment event occurs in relation to a supply made by the Supplier under or in connection with this deed, the Supplier will issue an adjustment note to the Recipient in respect of that supply within 14 days after becoming aware of the relevant adjustment.

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9.5 No merger

This clause shall not merge on any transfer of Assets.

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Executed as a deed.

A. **Executed** by **Ipswich City Properties Pty Ltd ACN 135 760 637** in accordance with section 127 of the Corporations Act 2001 (Cth):

E. _____ F. _____ G. _____ H. _____

I. Full name of sole director and company secretary who states that he or she is the sole director and sole company secretary of **Ipswich City Properties Pty Ltd ACN 135 760 637**

J. K. L. Signature of sole director and sole company secretary

M. **Signed, sealed and delivered** for and on behalf of **Ipswich City Council** by its duly authorised signatory/delegate in the presence of:

Q. _____ R. S. T. Signature of signatory/delegate
U. _____ V. W. X. _____

Y. _____ Z. AA. BB. Full name of signatory/delegate
CC. _____ DDEE. FF.
GG. Signature of witness HHII. JJ.
KK. _____ LL.MM

_____ NN. Full name of witness OOPP. QQ.

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Schedule 1 – Real Property

1.1 2 Bell Street, Ipswich - Leasehold

Lot/Plan	Title Reference
Lease No.601375840 and Lease No.601375841 over Lot 1 on RP157021	18007008

1.2 Bremer Street Ramp - State Leasehold

Lot/Plan	Title Reference
Special Lease SL 27/51591, Sublease No.602809913 and Sublease No. 602809914 over Lot 25 on Crown Plan SL804975	17719151

1.3 All other Real Property - Freehold

Lot/Plan	Title Reference
Lot 1 on SP300605	51150993
Lot 2 on SP300605	51150994
Lot 2 on SP246525	50864849
Lot 2 on RP209886	18427021
Lot 1 on RP2677	13312126
Lot 1 on RP209886	17044044

1.4 All other Real Property - Leasehold

Lot/Plan	Title Reference
Lease 601907098 over Lot 3 on RP212242	17077066

Doc ID No: A5602160

ITEM: E.4

SUBJECT: NICHOLAS STREET AND UNION PLACE LANDSCAPING AND SERVICES
COMPLETION WORKS - NICHOLAS STREET IPSWICH RESUBMISSION

AUTHOR: PROJECT ACCOUNTANT

DATE: 17 JUNE 2019

EXECUTIVE SUMMARY

This is a report concerning the delivery of the remaining scope (yet to be awarded) of construction works ("Remainder Works") within Nicholas Street and Union Place, for Nicholas St – Ipswich Central, which includes the completion of all construction works above pavement level.

RECOMMENDATION

That the Interim Administrator of Ipswich City Council resolve:

- A. That the previous decision of Council, as per Item no. 4 of the Economic Development Committee No. 5 of 14 May 2019 and adopted at the Council Ordinary Meeting of 21 May 2019, be repealed.
- B. That Council resolve to prepare a Tender Consideration Plan to enter into a contract with the existing supplier of Contract No. 13139 for Landscaping and Services Completion Works for Nicholas Street and Union Place in accordance with section 230(1)(a) of the *Local Government Regulation 2012*.
- C. That Council resolve to adopt the Tender Consideration Plan to enter into a contract with the existing supplier of Contract No. 13139 for Landscaping and Services Completion Works for Nicholas Street and Union Place as set out in Attachments 1 and 2 of this report, in accordance with section 230(1)(b) of the *Local Government Regulation 2012*.
- D. That Council approve a variation to Contract No. 13139 with JMAC Constructions Pty Ltd for the provision of Landscaping and Services Completion Works as set out in Attachments 1 and 2 of this report.

- E. That the Chief Executive Officer be authorised to negotiate and finalise the terms of the contract to be executed by Council and to do any other act necessary to implement Council's decision in accordance with section 13(3) of the *Local Government Act 2009*.

RELATED PARTIES

JMAC Constructions Pty Ltd.

ADVANCE IPSWICH THEME LINKAGE

Strengthening our local economy and building prosperity.

PURPOSE OF REPORT/BACKGROUND

Ipswich City Council (ICC) called open public tenders for the Design and Construction of Nicholas Street and Union Place in April 2018. J MAC Constructions Pty Ltd (JMAC) was successful and was appointed as the Principal Contractor in November 2018.

The scope of works awarded under the contract included for the full design of all works within Nicholas Street and Union Place, but construction of part only of the full scope of works. The Remainder Works was to be awarded as a separate contract following the completion of JMAC's contract.

As part of the tender process currently underway for the Administration Building, Library, Civic Space and Car Park refurbishment works (Main Contract), a Separable Portion (SP5) has been included for the completion of the Remainder Works. The Remainder Works has been included in the current tender for the Main Contract as a provisional sum.

Two options have been identified for the delivery of the Remainder Works:

- Remainder Works are delivered by the Main Contractor;
- Remainder Works are delivered by JMAC as a variation to their existing Contract.

A Tender Consideration Plan has been prepared and is attached to this report, detailing its objectives and how they will be achieved and measured, with option identification and analysis.

Rider Levett Bucknall (RLB) has reviewed the JMAC variation and have endorsed the proposed construction costs proposed by JMAC. It should be noted that the proposal includes a market-tested provisional sum for electrical work that will be competitively tendered by JMAC.

A report was tabled at the Economic Development Committee No. 5 of 14 May 2019 (Item no. 4) and adopted at the Council Ordinary Meeting of 21 May 2019. Recommendation A of the report sought an exception under the sole supplier arrangement s235(a). Upon review by Council Legal Services as a part of Council governance measures, it was identified that recommendation A in the Report was erroneous. The correct exception which should have

been applied was the exception under s230 of the *Local Government Regulation 2012*, requiring preparation of a tender consideration plan.

Accordingly the recommendations of the Council Meeting of 25 June 2019 report include the repeal of the above-mentioned erroneous Council resolution, and new recommendations to apply the correct exception. Legal advice from ICC's General Counsel and City Solicitor is included in confidential Attachment 3.

FINANCIAL/RESOURCE IMPLICATIONS

A detailed comparison of tender price versus existing provisional sum is included in Attachment 2. Resource costs of delivering the works are included in the Tender sum. Existing project resources will be utilised to manage the Contractor.

RISK MANAGEMENT IMPLICATIONS

Identification of key risks are included in Attachments 1 and 2. Management of such risks are in accordance with ICC's Risk Management Framework and guidelines, as stated in the CBD Transformation Project Program Management Plan.

This recommendation is being made to reduce the probability of scope-gaps and design conflicts for this work which is linked to JMAC's current scope. Furthermore, we anticipate JMAC will be more flexible with regard to incorporating any changes to scope or program that may arise in finalising the timing of this work.

LEGAL/POLICY BASIS

This report and its recommendations are consistent with the following legislative provisions: *Local Government Act 2009*.

COMMUNITY AND OTHER CONSULTATION

This is a scope of work within the overall Program of Works for Nicholas St – Ipswich Central, and as such does not require any additional specific community consultation as this has been undertaken as part of the overall Program of Works.

It should be highlighted that JMAC currently have an established relationship with adjacent stakeholders and we recommend maintaining continuity in this relationship.

CONCLUSION

It is recommended Council resolve to adopt the Tender Consideration Plan and engage JMAC to deliver the Remainder Works as a variation to their existing Contract.

ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS

1.	Tender Consideration Plan  
	CONFIDENTIAL

- | | |
|----|--------------------------------|
| 2. | Variation Assessment Report |
| 3. | Legal Advice Resolution Repeal |

Brett Edmunds

PROJECT ACCOUNTANT

I concur with the recommendations contained in this report.

Sean Madigan

GENERAL MANAGER - COORDINATION AND PERFORMANCE

I concur with the recommendations contained in this report.

David Farmer

CHIEF EXECUTIVE OFFICER

“Together, we proudly enhance the quality of life for our community”



Ipswich Central

Tender Consideration Plan: SP 5 Nicholas Street & Union Place – Landscaping and Services completion works

18th February 2019





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1. OBJECTIVES:

The objectives of this Tender Consideration Plan (TCP) are that the procurement process should address the following;

OBJECTIVES	
1	Complies with the procurement requirements of the Local Government Act
2	Utilises the investment made to date in the previous tender processes where appropriate.
3	The Ipswich Central redevelopment should proceed in a timely manner with continuity of works
4	Key risks associated with the tender scope are identified and mitigated
5	Opportunities are considered which may provide benefit to the Council through the scope of the proposed services.

2. HOW WILL OBJECTIVES BE ACHIEVED

The objectives identified for the SPP in section 1 will be achieved by the actions detailed in the following table;

	OBJECTIVE	ACHIEVED BY
1	Complies with the procurement requirements of the Local Government Act	Comply with the five (5) principles as laid down in Section 104(3) - Sound Contracting Principles, of the <i>Local Government Act 2009</i> , namely: <ul style="list-style-type: none"> I. Value for Money II. Open and effective competition III. The development of competitive local business and industry IV. Environmental protection V. Ethical behavior and fair dealing
2	Utilises the investment made to date in the previous tender processes where appropriate.	Consider options which utilise and protect the significant investment made to date in the planning, design and documentation involved to date and analyses associated risks / opportunities.
3	The Ipswich Central redevelopment should proceed in a timely manner with continuity of works	Following significant program delays and loss of confidence, provide continuity of services to ensure that the program of works has the opportunity to be delivered in the most advantageous timeframe
4	Key risks associated with the tender scope are identified and mitigated	Identify key risks and review mitigating strategies
5	Opportunities are considered which may provide benefit to the Council through the scope of the proposed services.	Consider delivery strategy for Ipswich Central to ensure most efficient and effective provision of services for Council.



3. HOW WILL ACHIEVEMENTS BE MEASURED

The following table details the measurements required to confirm objectives are achieved:

	OBJECTIVE ACHIEVED BY	MEASUREMENT
1	Comply with the five (5) principles as laid down in Section 104(3) - Sound Contracting Principles, of the <i>Local Government Act 2009</i> , namely:	
	I. Value for Money	Requirement for competitive tenders or quotes to be provided for all services where possible, and review against pre-tender estimate from independent quantity surveyor
	II. Open and effective competition	Comparison against original competitive tendered rates, and sourcing of competitive quotations for provisional sum works
	III. The development of competitive local business and industry	Local industry involvement to be included in procurement and assessment and measured and reported during construction
	IV. Environmental protection	Environmental Plans to be included in tender assessment
	V. Ethical behavior and fair dealing	Processes and correspondence to be fully documented and auditable.
2	Consider options which utilise and protect the significant investment made to date in the planning, design and documentation tender process and tenderers involved to date and analyse associated risks / opportunities.	Alternative procurement options to be identified and assessed
3	Following significant program delays and loss of confidence, provide continuity of services to ensure that the program of works has the opportunity to be delivered in the most advantageous timeframe	Compare delivery timeframes for procurement options
4	Identify key risks and review mitigating strategies	Independent quantity surveyor report including key risks
5	Consider delivery strategy for Ipswich Central to ensure most efficient and effective provision of services for Council.	Options considered to include review of packaging and scope of works



4. OPTION IDENTIFICATION & ANALYSIS:

Ipswich City Council (ICC) called open public tenders for the Design and Construction of Nicholas Street and Union Place in April 2018. JMAC Constructions (JMAC) was successful and was appointed as the Principal Contractor in November 2018. The scope of works awarded under the contract included for the full design of all works within Nicholas Street and Union Place, but construction of part only of the full scope of works. The remaining scope of construction works (“Remainder Works”), which includes the completion of all construction works above pavement level, was to be awarded as a separate contract following the completion of JMAC’s contract.

As part of the tender process currently underway for the Administration Building, Library, Civic Space and Carpark refurbishment works (Main Contract), a Separable Portion (SP5) has been included for the completion of the Remainder Works. The Remainder Works has been included in the current tender for the Main Contract as a provisional sum.

With consideration of the objectives of this plan and the current status of the design and progress of works, the following options have been identified for the delivery of the Remainder Works and analysed as follows.

Options	Description	Outcome
1	Remainder Works are delivered by the Main Contractor	<ul style="list-style-type: none"> • Tender documents currently includes a provisional sum allowance based on the RLB cost plan. • Lump Sum pricing by the Tenderer will be priced under the Provisional sum following the completion of the design by JMAC • The Tenderer’s access to commence works would be impacted by the completion of the JMAC contract works.
2	Remainder Works are delivered by JMAC as a variation to their existing Contract	<ul style="list-style-type: none"> • JMAC provide a Lump Sum Variation price, with provisional sum allowances based on their current design status. • JMAC progress with works as part of their contract with no access delays or coordination requirements with other contractors. • SP5 works removed from the Main Contract scope.

ICC therefore have the option to continue the tender process and award a construction contract for the Main Contract including Remainder Works, or consider deleting the Remainder Works from the Main Contract and completing the works by variation to the current D&C mall contractor in JMAC.



Option Analysis:

To properly analyse these options the following items have been identified for further consideration and resolution.

Criteria	Comment
Project delivery timing	Review of the impact on the delivery timing of the SP5 works
Probity issues	Are there any probity considerations or issues with the proposed options?
Interface and Coordination risks	What are relative risks / opportunities for the options relating to the interfaces between different contractors?
Economies of scale	Are there opportunities for cost efficiencies and potential economies of scale from the options?
Administrative efficiencies	Are there administrative benefits from options?
Value of additional / reduced work	If additional / reduced scope is included in the works will the change in value have an impact on the current tenderers?
Exposure to tendering costs	Do any of the options risk payment of tendering costs?
The current tendering market	Has the tendering market changed, potentially requiring a different approach to be considered?

Option	Advantages	Disadvantages	Risks
1	<ul style="list-style-type: none"> Maintains current tendering process under the Main Contract No exposure to tendering costs No Probity issues 	<ul style="list-style-type: none"> Tenders price will be a provisional sum and not finalized until JMAC design works are finalised. The price will then need to be negotiated or valued under the Provisional Sum either post award or during the Tender evaluation period. The Main Contract's access to complete the Remainder Works will either be delayed until JMAC's current contract works are complete or access will need to be coordinated with JMAC. This has potential to delay commencement and / or increase construction durations. The Main Contractor will be working from documentation developed under JMAC's D&C contract. Any issues with the design raised by the Main Contractor will need to be coordinated through the Superintendent with the JMAC design consultants. Public access to completed facilities delayed due to later start on works. 	<ul style="list-style-type: none"> Extended contract durations duration due to coordination and access requirements Resolution of Design documentation issues. No guarantee that final agreed variation for the works will be less than the allowed Provisional Sum amount.



2	<ul style="list-style-type: none"> • Reduced construction duration as JMAC are able to schedule the remaining works within their own construction program. • Provides earliest completion dates and public access to completed facilities. • No exposure to tendering costs • Maximises savings from economies of scale by combining the additional scope into JMAC contract reducing preliminary costs • JMAC are able to provide Lump sum price for the works immediately, with provisional sum allowances for a smaller value than in Option1 • Minimises interface and demarcation issues • JMAC as the D&C Contractor will be responsible for resolution of design documentation issues. • The works are currently nominated in the Main Contract as a provisional sum and can be easily removed from that contract scope. 	<ul style="list-style-type: none"> • Perception related to previous agreements 	<ul style="list-style-type: none"> • Probity surrounding tender process given the value of the works and that they would be awarded as a variation to an existing contract. • Justification of evidencing value for money. Price review by and against independent QS cost plan. • Part of the scope of works still remain a provisional sum cost as the design is not complete.
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Regardless of which option is taken, the price for the Remainder Works will be validated by a Quantity Surveyor.

5. SUMMARY

Subject to an ICC approval, then Option 2 would appear to be the most advantageous approach, because it provides the shortest project timeframe, provides opportunity for savings through economies of scale with JMAC and mitigates interface risks both on site and with design documentation.

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ITEM: E.5

SUBJECT: TENDER CONSIDERATION PLAN - IPSWICH CITY PROPERTIES PTY LTD SUPPLIER AGREEMENT NOVATIONS TO IPSWICH CITY COUNCIL

AUTHOR: GENERAL MANAGER - COORDINATION AND PERFORMANCE

DATE: 19 JUNE 2019

EXECUTIVE SUMMARY

This is a report concerning the Quote or Tender Consideration Plan for the engagement of suppliers and contractors who are currently engaged by Ipswich City Properties for the Ipswich Central CBD Transformation Project and for the novation of these existing agreements from Ipswich City Properties Pty Ltd (ICP) to Ipswich City Council (ICC) as part of the winding up of ICP and the integration of the assets and operations.

RECOMMENDATION

That the Interim Administrator of Ipswich City Council resolve:

- A. That a Tender Consideration Plan be prepared (attachment 1) in accordance with section 230 (1) (a) of the *Local Government Regulation 2012 (Qld)* for the novation of the existing Supplier Contracts or Agreements (to which Ipswich City Properties Pty Ltd are a party to the Contract or Agreement), be novated from Ipswich City Properties Pty Ltd to Ipswich City Council as outlined in the report by the General Manager – Coordination and Performance dated 19 June 2019.**
- B. That in accordance with section 230(1)(b) of the *Local Government Regulation 2012*, the Tender Consideration Plan (“TCP”) (Attachment 1) of the report by the General Manager – Coordination and Performance dated 19 June 2019 be adopted by Council. The TCP contained in Attachment 1 of the report is for the novation of existing supplier contracts or agreements (to which Ipswich City Properties Pty Ltd are a party to the contract or agreement) to be novated from Ipswich City Properties to Ipswich City Council.**
- C. That Council accept novation of the existing nine (9) supplier/contractor agreements as listed in Attachment 2 of the Report by the General Manager Coordination and Performance dated 19 June 2019, (as to which Ipswich City Properties Pty Ltd are a party to the Contract or Agreement), be novated from Ipswich City Properties Pty Ltd to Ipswich City Council for works pertaining to the Ipswich Central CBD Transformation Project as further described in the Report by the General Manager – Coordination and Performance dated 19 June 2019.**

- D. That Council accept novation of the existing fourteen (14) supplier/contractor agreements as listed in Attachment 3 of the report by the General Manager Coordination and Performance dated 19 June 2019, (as to which Ipswich City Properties Pty Ltd are a party to the Contract or Agreement), be novated from Ipswich City Properties Pty Ltd to Ipswich City Council, for works pertaining to the retail operations of the 2 Bell Street and Ipswich City Square properties as further described in the Report by the General Manager – Coordination and Performance dated 19 June 2019.**
- E. That Council accept novation of the existing eight (8) supplier / contractor agreements as listed in Attachment 4 (previously novated from EPC Pacific Ipswich 1 Pty Ltd to Ipswich City Properties Pty Ltd) of the Report by the General Manager Coordination and Performance dated 19 June 2019, (as to which Ipswich City Properties Pty Ltd are a party to the Contract or Agreement), be novated from Ipswich City Properties Pty Ltd to Ipswich City Council, for consultancy works pertaining to the design of the Administration Building Base Build as further described in the Report by the General Manager – Coordination and Performance dated 19 June 2019.**
- F. That the Chief Executive Officer be authorised to negotiate and finalise the terms and novation of the contracts to be executed by Council and to do any other acts necessary to implement Council’s decision in accordance with section 13(3) of the *Local Government Act 2009*.**

RELATED PARTIES

Various suppliers and sub-consultants listed in Attachments 2, 3 and 4.

ADVANCE IPSWICH THEME LINKAGE

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PURPOSE OF REPORT/BACKGROUND

ICP has previously engaged a number of suppliers/contractors and sub-consultants for works pertaining to the Ipswich Central CBD Transformation Project and the ongoing operations of Ipswich City Square.

Due to winding up of ICP and the integration of the assets and business operations into Ipswich City Council by the end of June 2019, to ensure continuity of project works in relation to the CBD Redevelopment Project and the ongoing retail operations, any project contracts/supplier agreements are recommended to be novated to Ipswich City Council.

A detailed Tender Consideration Plan is included in Attachment 1.

The suppliers have been grouped as follows:

Project Suppliers (i.e. consultants and contractors engaged for the CBD Redevelopment)

Project suppliers requiring novation are listed in Attachment 2. These are suppliers directly engaged for redevelopment works. The procurement process used by ICP to engage project suppliers is as per that set out in the *ICC CBD Transformation Program – Program Management Plan (PMP)* dated September 2016. The PMP requires ICP procurement to be carried out in accordance with ICC procurement policies and procedures. To the best of the knowledge of the current project team, this process was followed by the Project team with oversight/certification by an independent probity advisor.

Project Suppliers (i.e. suppliers relating to the ongoing operations of Ipswich City Square)

Retail suppliers requiring novation are listed in Attachment 3. These are suppliers engaged to provide day-to-day services to maintain ICP-owned properties, e.g. cleaning, security, etc. The procurement process used by ICP to engage retail suppliers is as per that set out in the *Ipswich City Properties Pty Ltd – Procurement Policy*. It is recommended to continue to engage these suppliers on a month-to-month arrangement, up to a maximum of 6 months to enable a review to be undertaken on whether Council has existing suppliers and whether works is allowable under these contractors or to conduct a new procurement process.

Consultants novated from EPC to ICP

Ipswich City Properties Pty Ltd had previously entered into a Development Management Agreement with a developer, EPC and Council had entered into an Agreement for Lease with EPC, in relation to the construction and lease of the administration building.

Council resolved to negotiate and finalise the termination of the agreements of Council and ICP with the developer EPC. As part of the settlement, Council agreed to, amongst other things, pay consideration to the developer EPC for preparation of plans and designs for the administration building. As part of the settlement it was agreed that consultants engaged by EPC in relation to the project would be novated to ICP as per Attachment 4.

The current Contract Cost Summary in relation to the Consultants novated from EPC is set out in the Confidential Attachment 6 and outlines the possible Post Novation Fees payable in relation to all contracts of approx. \$1 million.

Council is seeking confirmation, clarification and advice as to terms of these contracts and possible obligations in relation to the post novation fees or the ability to vary the scope and associated contract price.

The Principal's Project Requirements as part of the tender documentation for the appointment of the Contractor to design and construct the Administration Building allows the option for the Contractor to accept novation of these consultants as outlined in Attachment 4.

As any obligations under the current contracts already reside within the Council consolidated group through ICP and these consultants have been engaged as part of the design of the Administration Building Base Build, it is recommended that the consultants listed in Attachment 4 be novated to Council.

Sub-consultants (i.e. consultants directly by the Project Management Partner relating to the CBD Redevelopment)

The list of consultants currently engaged directly by Project Management Partner, Ranbury Management Group, are listed in Attachment 5. The procurement process used by the project team to select sub-consultants was either based on value for money benchmarking (performed by an independent cost assessor) against industry standards for recommended sub-consultants, or via a competitive tender for all other sub-consultants. The existing agreement with Ranbury allows the appointment of sub-consultants that Ranbury directly manages. On the novation of the Management Services contract with Ranbury to ICC, there will be a number of sub-consultants who will continue to be engaged by Ranbury. ICC will undertake a review of these sub-consultant agreements to determine whether there is benefit and value in Council engaging the consultants direct, taking into consideration transfer of risks, etc.

FINANCIAL/RESOURCE IMPLICATIONS

Any additional resources required as a result of the engagement of these suppliers or contractors on the Ipswich Central CBD Transformation Project will be funded within current project budget allocations.

RISK MANAGEMENT IMPLICATIONS

Existing contract terms and conditions have been subject to legal review to ensure all rights, obligations and securities have been transferred as part of the novation of the contracts to ICC. If the existing suppliers and contractors were not novated and new procurement processes were undertaken there would be delays to the project and potential loss of knowledge and experience on the project.

LEGAL/POLICY BASIS

This report and its recommendations are consistent with the following legislative provisions: *Section 230(1) (a) and (b) of the Local Government Regulation 2012*

COMMUNITY AND OTHER CONSULTATION

There will be no effect to the community regarding the change of Principal for the Contracts.

CONCLUSION

To ensure continuity of project works and the transfer of rights and obligations under the contracts, it is recommended that Council agree to the novation of the existing ICP agreements to ICC as part of the winding up and integrations of the assets and operations of ICP into ICC.

ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS

1.	Tender Consideration Plan  
2.	Ipswich Central CBD Transformation Project Suppliers Novation Summary  
3.	Ipswich CBD Retail Operations Suppliers Novation Summary  
4.	Ipswich Central CBD Transformation Project Consultants novated from EPC Novation Summary  

5.	Ipswich Central CBD Transformation Project Ranbury Subconsultants Summary ↓ 
	CONFIDENTIAL
6.	Contract Cost Summary – Consultants Novated from EPC

Sean Madigan

GENERAL MANAGER - COORDINATION AND PERFORMANCE

I concur with the recommendations contained in this report.

David Farmer

CHIEF EXECUTIVE OFFICER

“Together, we proudly enhance the quality of life for our community”



Ipswich Central

Tender Consideration Plan:

Ipswich City Properties Pty Ltd Supplier Agreement Novations to Ipswich City Council

19 June 2019





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1. BACKGROUND

On 28 February 2017, Ipswich City Council (ICC) resolved to enter into a Development Management Agreement (DMA) with Ipswich City Properties Pty Ltd (ICP). This DMA included the development of the Civic Space occurring in stages. Ipswich Central CBD Transformation Project (“Project”) works have steadily progressed over this time period.

Separate to the DMA, ICP also delivers retail operations (“Retail”) within the Ipswich City Square and 2 Bell Street properties, located in the Ipswich CBD.

At the Council Meeting of 16 October 2018, ICC resolved to integrate the assets and operations of ICP into Ipswich City Council (ICC) and to wind-up ICP.

Through the process of preparing to transfer the assets and operations, it was identified that as part of the ongoing redevelopment and retail operations of Ipswich City Square, there are a number of consultants, contractors and suppliers actively supporting ICP to deliver these activities. To ensure that Council is able to continue with the CDB redevelopment in a timely way and maintain the ongoing retail operations, along with market considerations and the strategic importance for the project of the continuation of relevant particular supplier relationships, it is recommended that Council novate from ICP these existing contracts on the basis that it is not feasible or practical in the circumstances and timeframes to undertake a new quotation or tender process to enable Council to engage each supplier.

The Local Government Regulation 2012 Section 230 allows a local government to enter into medium and large contractual agreements, without first inviting written quotes or tenders, through the preparation and adoption of a Tender Consideration Plan (TCP). This TCP provides the information required to comply with the regulation and to justify the use of the plan as an effective and appropriate alternative to seeking quotes or to calling for open tenders.

2. SUPPLIER DETAILS FOR NOVATION

The following Project suppliers which provide consultancy and contracting services in relation to the redevelopment of the CBD, are recommended for novation:

TABLE 1:

NO.	SUPPLIER	SCOPE PEFORMED
1	Ranbury Management Group Pty Ltd	Project Management Services
2	ACOR Consultants (Qld) Pty Ltd	Structural Engineering Design Services
3	Douglas Partners Pty Ltd	Geotechnical Inspection Services
4	Origin Securities Pty Ltd as trustee for Origin Securities Trust	Probity Services
5	Procore Technologies, Inc.	Project Management Software
6	Energex Limited	Temporary Relocation of Services
7	J. Hutchinson Pty Ltd	Demolition, Civil Works, Construction Services
8	James Trowse (Qld) Pty Ltd	Site Remediation Services
9	RGC Consulting Pty Ltd	Furniture Fittings and Equipment (FF&E) Consultancy Services



The following Retail suppliers are recommended for novation:

TABLE 2:

NO.	SUPPLIER	SCOPE PEFORMED
1	Advance Global Elevators Pty Ltd	Comprehensive VT Maintenance ICS
2	AE Smith Service (SEQ) Pty Ltd	Comprehensive AC Maintenance ICS
3	AGL Sales Pty Limited	Electricity Supply
4	Australian Essential Services Compliance Pty Ltd	Essential Safety Measures Auditing for Occupiers Statements
5	Brisbane Fire Protection	Fire equipment maintenance 2 Bell St
6	Dormakaba Australia Pty Ltd	Auto Door Platinum Maintenance
7	Facility Operations Pty Ltd T/A Boss Air	AC Maintenance 2 Bell St
8	Firemex Pty Limited	Fire Roller Doors Maintenance
9	Millennium Services Group Ltd	Cleaning and adhoc toilet consumables
10	Fresh & Clean - Brisbane	Sanitary, Sharps, Nappy, Air Fresheners ICS
11	Point Parking Pty Ltd	Carpark Management (difference between revenue & cost via I&E)
12	Schindler Lifts Australia Pty Ltd	Comprehensive VT Maintenance 2 Bell St
13	Trident Security Services Pty Ltd	24/7 Security, Concierge & Facilities Support
14	Watts Energy Pty Ltd	Electricity Meter Reads

The following Consultants (previously novated to ICP from the developer EPC) are recommended for novation:

TABLE 3:

NO.	SUPPLIER	SCOPE PEFORMED
1	The Buchan Group Australia Pty Ltd	Base Building Design Architect
2	Robert Bird Group Pty Ltd	Structural Engineer
3	Umow Lai VIC Pty Ltd	Vertical Transportation
4	Inhabit Australasia Pty Ltd	Façade Engineer
5	Lehr Paul and Partners Pty Ltd	Fire Engineer
6	MRP Hydraulic and Fire Services Consultants Pty Ltd	Hydraulics
7	NDY Management Pty Ltd	Services
8	Steve Watson and Partners Pty Ltd	Certifier



An Officers' Report will be presented at the 27 June 2019 Special Council meeting requesting resolution for the adoption of recommendations to transfer assets and operating activities of ICP to ICC. Subject to passing of this resolution, it is proposed that a number of suppliers/contractors currently engaged directly by ICP for the project and retail operations be novated to ICC.

3. OBJECTIVES

This tender consideration plan is intended to fulfil the following objectives:

OBJECTIVES	
1	Enable integration of the assets and operations of ICP into Council and to ensure the operations of ICP once transferred to ICC should proceed in a timely manner with continuity of works
2	Document Council's decision not to seek quotes or tenders and to novate the suppliers from ICP to ICC
3	Consideration of the five (5) sound contracting principle outlined in the Local Government Act 2009
4	Key risks associated with novation be identified and mitigated



4. HOW WILL OBJECTIVES BE ACHIEVED

The objectives identified for the TCP in Section 3 will be achieved by the actions detailed in the following table:

	OBJECTIVE	ACHIEVED BY
1	Enable integration of the assets and operations of ICP into Council and to ensure the operations of ICP once transferred to ICC should proceed in a timely manner with continuity of works	<p>The proposed novation of the existing contractors, consultants and suppliers currently engaged by ICP in relation to the CBD redevelopment and operations of Ipswich City Square will enable the timely continuation of the redevelopment and retail operations.</p> <p>Through the recent restructure within ICC, the CBD redevelopment and Ipswich City Square operations are now part of the Coordination and Performance Department. This will ensure greater transparency, coordination and reporting of the project to ensure alignment with Council's objectives for the CBD redevelopment.</p>
2	Document Council's decision not to seek quotes or tenders and to novate the suppliers from ICP to ICC	<p>This plan outlines the objectives and reasons to support the recommendation to novate the suppliers and contractors to ICC from ICP without initially undertaking a quote or tender process, ensuring consideration is given to the sound contracting principles.</p>
3	Consideration of the five (5) sound contracting principle outlined in the Local Government Act 2009	<p>The Procurement Process used by ICP to engage Project suppliers (including those in Section 2, Table 1 of this TCP) is as per that set out in the <i>ICC CBD Transformation Program – Program Management Plan (PMP)</i> dated September 2016. The PMP requires ICP procurement to be performed in accordance with ICC procurement policies and procedures. To the best of the knowledge of the current project team, this process was followed by the Project team with oversight/certification made by an independent probity advisor.</p> <p>The Procurement Process used by ICP to engage Retail suppliers (including those in Section 2, Table 2 of this TCP) is as per that set out in the <i>Ipswich City Properties Pty Ltd (The Company) – Procurement Policy</i>.</p> <p>The consultants included in Section 2, Table 3 of this TCP were novated to ICP as part of the settlement Council reached with the former developer of the Administration Building, EPC. These consultants were engaged in relation to the design of the Administration Building Base Build.</p>
4	Key risks associated with novation be identified and mitigated	<p>Evaluate levels of various risk profiles with mitigation strategies to be implemented (refer Section 8).</p>



5. HOW WILL ACHIEVEMENT OF OBJECTIVES BE MEASURED

To following table details the measurements required to confirm objectives are achieved:

	OBJECTIVE	MEASUREMENT
1	Enable integration of the assets and operations of ICP into Council and to ensure the operations of ICP once transferred to ICC should proceed in a timely manner with continuity of works	<p>The timely delivery of the project in accordance with the project schedule is monitored by the Project Steering Committee with support from the CBD Transformational Working Group.</p> <p>As mentioned above; the operations of Ipswich City Square are now part of the Coordination and Performance Department which will be responsible for the ongoing delivery of services.</p>
2	Document Council's decision not to seek quotes or tenders and to novate the suppliers from ICP to ICC.	Acceptance of this plan and recommendations by Council.
3	Consideration of the five (5) sound contracting principle outlined in the Local Government Act 2009	<p>The delivery of services by contractors and consultants as part of the CBD redevelopment will be managed and monitored by the project team in accordance with novated contracts.</p> <p>The retail operational suppliers will be reviewed by the Coordination and Performance Department within 6 months of novation. If Council requires these service on an ongoing basis and Council doesn't have existing suppliers who can undertake the services within existing contracts, then a quotation or tender process will be undertaken.</p>
3	Evaluate levels of various risk profiles with mitigation strategies to be implemented	Ensure mitigation strategies provide significant effect on reducing the evaluated risk level



6. IDENTIFICATION & ANALYSIS OF ALTERNATIVES:

The analysis of reasons to support the novation of existing suppliers is set out below.

The alternative options was for Council to undertake a new quotation or tender process for the appointment of all suppliers and contractors. The time frames of undertaking this process would have meant that either the project was delayed or that the integration of the ICP into ICC, as resolved by Council, would have been delayed. The continued use of ICP to deliver the project was not a feasible option as financial support by Council through the Statutory Bodies Financial Arrangements Act loan approval reduces to \$50 million on 30 June; as outlined in the separate report of the Finance Manager.

In addition, to minimise the risks of the project, Council needed to ensure that the intellectual property, knowledge, licenses etc. were transferred to Council. It was established that novation of the existing contracts was the best way to achieve this.

Project suppliers (consultants and contractors for the CBD Redevelopment), along with their respective services and substantiation for requesting novation of these agreements are included in Attachment 2 of the overall Officer's report. As listed, substantiation includes:

- Maintaining the intellectual knowledge these suppliers have on the Project due to long-standing involvement,
- Maintaining benefits of existing agreements through warranties and licenses to intellectual property (IP), or
- Contractual requirements due to works currently underway or subject to a Defects Liability Period.

Retail suppliers, along with their respective services and substantiation for requesting novation of these agreement are included in Attachment 3 of the overall Officer's report. It is envisaged these agreements continue on a month to month basis for a maximum 6 month period to 31 December 2019. As listed, substantiation includes:

- Continuity of service with experienced service providers
- A longer notice period of termination to ensure an amicable separation with service providers should the requirement arise
- The ability to undergo a detailed handover process should the requirement arise whereby ICC can obtain information on the assets and equipment
- The ability of more time and a smooth transition to enable Council to consider each service provided, what will be required in the future pending the CBD Redevelopment Project and provide time for Council to undertake a new procurement process were Council requires the continuation of services.
- Active management onsite to reduce all services not required from each service provider

Consultants (previously novated from the former developer EPC) along with their respective services and substantiation for requesting novation of these agreements are included in Attachment 4 of the overall Officer's report. As listed, substantiation includes:

- The contracts were novated to ICP from EPC as part of the settlement with EPC following the termination of the Development Management Agreement
- Maintaining the intellectual knowledge these suppliers which were engaged in relation to the design of the Administration Building Base Build



- Maintaining benefits of existing agreements through warranties and licenses to intellectual property (IP)
- The appointed Contractor may at their option novate some or all of these consultants.

Relevant insurance and security documentation will be sought. Any effect on the works being carried out by suppliers will be negligible.

7. PROPOSED TERMS OF CONTRACTS

As the recommendation is to novate the existing contracts from ICP to ICC, the existing terms and conditions of the contracts will remain the same.

In relation to the retail suppliers, all contracts to be novated are on a month to month basis. The report outlines that the Coordination and Performance Department will review the existing retail suppliers within 6 months and if it is determined that Council requires the services on an ongoing basis then a quote or tender process will be undertaken.

8. RISK ANALYSIS OF MARKET FROM WHICH SERVICES ARE TO BE OBTAINED:

The key risks identified when assessing the market from which the services are obtained is the ability for the project to continue without further delay and to ensure that Council has the intellectual property, warranties, defects liability obligations transferred. If the project is delayed further than the overall cost of completion of the project would escalate.

In addition, if the current suppliers, contractors and consultants were not novated or engaged by Council, then the risk of not successfully delivering the project or Council being able to continue the operations of Ipswich City Square would be higher as the project knowledge and maintenance knowledge in relation to the assets could be lost.

The following general risks and mitigation strategies have been identified in relation to novating existing ICP supplier agreements to ICC:

Financial Risk		Risk Level
Event	Suppliers may choose not to accept novation of current agreements	
Likelihood	Unlikely	Low
Consequence	Minimal	
Mitigation	Suppliers have been advised that ICC are considering whether to novate their current ICP agreements, and that they would be advised immediately once the ICC decision is made. Due to the organisation stability of ICC, it is considered unlikely suppliers will choose not to accept the novation. In some cases of Project suppliers, there is a contractual obligation to novate should it be deemed necessary.	
Legal & Governance		Risk Level

Item E.5 / Attachment 1.



Event	Suppliers may dispute the terms & conditions (T&C's) of the novation document, or dispute the ceasing of their engagement, should ICC not decide to novate their current ICP agreement	
Likelihood	Unlikely	Low
Consequence	Minimal	
Mitigation	All Retail suppliers have been given 30-days' notice under the T&C's of their contract of ICP operations ending, but with the option to novate to ICC should this be approved. For Project suppliers, construction agreements have a novation clause allowing such a novation if required.	

Political / Reputation		Risk Level
Event	Suppliers refuse to sign novations and project is delayed.	
Likelihood	Unlikely	Low
Consequence	Minimal	
Mitigation	At the 16 October 2018 (public) Council meeting, ICC resolved to wind-up operations of ICP. Communication has been made with suppliers recently as to the possibility of contract novations or terminations, subject to a final decision by ICC.	

Community and Environment		Risk Level
Event	None	
Likelihood	N/A	N/A
Consequence	N/A	
Mitigation	There is no perceived Community or Environmental risk due to delivering the objectives of this TCP.	

Health & Safety		Risk Level
Event	None	
Likelihood	N/A	N/A
Consequence	N/A	
Mitigation	There is no perceived Health & Safety risk due to delivering the objectives of this TCP.	



Service Delivery / Business Continuity		Risk Level
Event	Delays in executing novation agreements causing project or operational delays	
Likelihood	Possible	Moderate
Consequence	Moderate	
Mitigation	Suppliers will be formally advised immediately once ICC approval is given to novate, including novation documentation. There is no expectation of any significant delays to services being provided.	

Information Confidentiality, Integrity and Accessibility		Risk Level
Event	Information and Knowledge of the Projects and Assets not transferred to ICC	
Likelihood	Possible	Moderate
Consequence	Moderate	
Mitigation	Novation documents to transfer all rights etc to ICC. The TCP and proposed novation of existing suppliers vs undertaking a new quote or tender process helps mitigate this risk	

9. SUMMARY

To ensure continuity of CBD Redevelopment Project and Retail works, it is recommended to novate existing ICP agreements to ICC per those listed in Section 2 (Tables 1, 2 and 3) of this Tender Consideration Plan.

Each supplier will be managed by a nominated Principal or Superintendent Representative, ensuring the contract is appropriately managed in accordance with terms and conditions of the relevant Contract.

Attachment 2

Ipswich City Properties Pty Ltd (ICP) – Ipswich Central CBD Transformation Project Project Supplier Novation Summary

Item	Contractor / Consultant	Contract	Scope Performed	Substantiation for Novation of Agreement
Project Management Consultants				
1.	Ranbury Management Group Pty Ltd	Management Services Agreement	Project Management Services	<ul style="list-style-type: none"> Has been Project Management Partner since 2016, having an extensive intellectual knowledge of the Project, and having developed and maintained an array of key relationships with internal and external stakeholders.
Other consultants (design, engineering etc.)				
2.	ACOR Consultants (Qld) Pty Ltd	Letter of acceptance, comprising various documents.	Structural Engineering Design Services	<ul style="list-style-type: none"> Consultancy Services have concluded, however ICC wishes to maintain the benefit of certain aspects of services provided – warranties, licence to use IP, etc.
3.	Douglas Partners Pty Ltd	Consultant Fee Proposal acceptance (to be confirmed)	Geotechnical Inspection Services	<ul style="list-style-type: none"> Consultancy Services have concluded, however ICC wishes to maintain the benefit of certain aspects of services provided – warranties, licence to use IP, etc.
4.	Origin Securities Pty Ltd as trustee for the Origin Securities Trust	Letter of acceptance, comprising various documents.	Probity Services	<ul style="list-style-type: none"> Has been providing Project Probity services since 2017, having an extensive knowledge of the Project and procurement processes.
5.	Procure Technologies, Inc.	Procure T&Cs (Amended)	Project Management Software	<ul style="list-style-type: none"> Engaged in March 2019 following a detailed evaluation process of available software options in the market. Subscription term is for 24 months with a 12 monthly renewal option.
Contractors				
6.	Energex Limited	Energex Work Request	Temporary Relocation of Services	<ul style="list-style-type: none"> Work paid for but not yet performed. Benefit of novation to maintain existing (quoted) price structure. No market alternative to perform works
7.	J. Hutchinson Pty Ltd	Contract, amended AS2124 – 1992.	Demolition, Civil Works, Construction Services	<ul style="list-style-type: none"> Contract works near completion. Requirement to maintain contract for Defects Liability Period (DLP).

Item	Contractor / Consultant	Contract	Scope Performed	Substantiation for Novation of Agreement
8.	James Trowse (Qld) Pty Ltd	Contract, amended AS4300 – 1995.	Site Remediation Services	<ul style="list-style-type: none">Contract works near completion. Requirement to maintain contract for Defects Liability Period (DLP).
9.	RGC Consulting Pty Ltd	Letter of acceptance, comprising various documents.	Furniture Fittings and Equipment (FF&E) Consultancy Services	<ul style="list-style-type: none">Contractor engaged in late 2018 for a defined scope, with provision of services currently underway. Contractor has significant intellectual knowledge of the Project.

Attachment 3

Ipswich City Properties Pty Ltd (ICP) – Ipswich Central CBD Tranformation Project Retail (Operations) Supplier Novation Summary

Item	Contractor / Consultant	Contract	Scope Performed	Substantiation for Novation of Agreement
Service Providers				
1.	Advance Global Elevators Pty Ltd	Consultant Agreement	Comprehensive VT Maintenance ICS	<ul style="list-style-type: none"> • Continuity of service with experienced service providers • A longer notice period of termination to ensure an amicable separation with service providers should the requirement arise • The ability to undergo a detailed handover process should the requirement arise whereby ICC can obtain information on the assets and equipment • The ability of more time to consider each service provided and what will be required in future pending the CBD Project effect on the property assets • Active management onsite to reduce all services not required from each service provider
2.	AE Smith Service (SEQ) Pty Ltd	Consultant Agreement	Comprehensive AC Maintenance ICS	• As above
3.	AGL Sales Pty Limited	Consultant Agreement	Electricity Supply	• As above
4.	Australian Essential Services Compliance Pty Ltd	Consultant Agreement	Essential Safety Measures Auditing for Occupiers Statements	• As above
5.	Brisbane Fire Protection	Consultant Agreement	Fire equipment maintenance 2 Bell St	• As above
6.	Dormakaba Australia Pty Ltd	Consultant Agreement	Auto Door Platinum Maintenance	• As above
7.	Facility Operations Pty Ltd T/A Boss Air	Consultant Agreement	AC Maintenance 2 Bell St	• As above
8.	Firemex Pty Limited	Consultant Agreement	Fire Roller Doors Maintenance	• As above
9.	Millennium Services Group Ltd	Consultant Agreement	Cleaning and adhoc toilet consumables	• As above

Item	Contractor / Consultant	Contract	Scope Performed	Substantiation for Novation of Agreement
10.	Fresh & Clean - Brisbane	Consultant Agreement	Sanitary, Sharps, Nappy, Air Fresheners ICS	• As above
11.	Point Parking Pty Ltd	Consultant Agreement	Carpark Management (difference between revenue & cost via I&E)	• As above
12.	Schindler Lifts Australia Pty Ltd	Consultant Agreement	Comprehensive VT Maintenance 2 Bell St	• As above
13.	Trident Security Services Pty Ltd	Consultant Agreement	24/7 Security, Concierge & Facilities Support	• As above
14.	Watts Energy Pty Ltd	Consultant Agreement	Electricity Meter Reads	• As above

Attachment 4

Ipswich City Properties Pty Ltd (ICP) – Ipswich Central CBD Transformation Project Administration Building Design Team Novation Summary

Item	Contractor / Consultant	Contract	Scope Performed	Substantiation for maintaining engagement of Consultants
Administration Building Design Consultants				
1.	The Buchan Group Australia Pty Ltd	Design Consultant Agreement	Base Building Design Architect	<ul style="list-style-type: none"> Engaged previously by epc.Pacific. Full Administration Building Development tender process was novated over to ICP on termination of epc.Pacific Development Agreement in early 2018, including this Consultant Agreement. This agreement to be novated to ICC, pending outcome of novation to successful Tenderer for the Ipswich Central Civic Project Contract Award.
2.	Robert Bird Group Pty Ltd	Design Consultant Agreement	Structural Engineer	<ul style="list-style-type: none"> As above
3.	Umow Lai VIC Pty Ltd	Design Consultant Agreement	Vertical Transportation	<ul style="list-style-type: none"> As above
4.	Inhabit Australasia Pty Ltd	Design Consultant Agreement	Façade Engineer	<ul style="list-style-type: none"> As above
5.	Lehr Paul and Partners Pty Ltd	Design Consultant Agreement	Fire Engineer	<ul style="list-style-type: none"> As above
6.	MRP Hydraulic and Fire Services Consultants Pty Ltd	Design Consultant Agreement	Hydraulics	<ul style="list-style-type: none"> As above
7.	NDY Management Pty Ltd	Design Consultant Agreement	Services	<ul style="list-style-type: none"> As above
Administration Building Non-Design Consultants				
8.	Steve Watson and Partners Pty Ltd	Non-Design Consultant Agreement	Certifier	<ul style="list-style-type: none"> As above

Attachment 5

Ipswich City Properties Pty Ltd (ICP) – Ipswich Central CBD Transformation Project Ranbury Subconsultant Summary

Item	Contractor / Consultant	Contract	Scope Performed	Substantiation for maintaining engagement of Subconsultants
Ranbury Subconsultants				
1.	Bligh Voller Neild (BVN)	Consultant Agreement	Base Building Design Architect	• ICC wishes to maintain the benefit of certain aspects of services provided – warranties, licence to use IP, etc.
2.	Vee Design	Consultant Agreement	Landscape Design Architect	• As above
3.	Bornhorst & Ward	Consultant Agreement	Structure Consultant	• As above
4.	Rider Levett Bucknall (RLB)	Consultant Agreement	Cost Consultant	• As above
5.	Cardno	Consultant Agreement	Town Planning Consultant	• As above
6.	WSP/Parsons Brinkerhoff	Consultant Agreement	Engineering Services	• As above
7.	Veris	Consultant Agreement	Surveying Consultant	• As above
8.	Mckenzie Group	Consultant Agreement	Certifier	• As above
9.	JM Pearce Architects	Consultant Agreement	Heritage Consultant	• As above
10.	Gibson Architects	Consultant Agreement	Base Building Design Architect	• As above
11.	Six Ideas	Consultant Agreement	Change Management Consultant	• As above
12.	Brain and Poulter	Consultant Agreement	Food & Beverage Consultant	• As above
13.	URBIS	Consultant Agreement	Town Planning Consultant	• As above
14.	Dot Dash	Consultant Agreement	Base Building Design Architect	• As above

Doc ID No: A5622520

ITEM: E.6

SUBJECT: TENDER CONSIDERATION PLAN - APPOINTMENT OF RETAIL LEASING AGENT - IPSWICH CENTRAL CBD TRANSFORMATION PROJECT

AUTHOR: GENERAL MANAGER - COORDINATION AND PERFORMANCE

DATE: 20 JUNE 2019

EXECUTIVE SUMMARY

This is a report concerning the Quote or Tender Consideration Plan for the appointment of a retail leasing agent for Ipswich Central CBD Transformation Project.

Ranbury Property Services Pty Ltd ("Ranbury") are currently appointed as leasing agents by Ipswich City Properties Pty Ltd (ICP) in relation to the Ipswich Central CBD Transformation Project. The timeframes, process and resolutions of the ICP that lead to the appointment of Ranbury are outlined in the Tender Consideration Plan (Attachment 1).

RECOMMENDATION

That the Interim Administrator of Ipswich City Council resolve:

- A. That a Tender Consideration Plan be prepared (attachment 1) in accordance with section 230 (1) (a) of the *Local Government Regulation 2012 (Qld)* for the appointment of a Retail Leasing Agent, as outlined in the report by the General Manager – Coordination and Performance dated 20 June 2019.**
- B. That the Tender Consideration Plan (attachment 1) as set out and outlined in the report by the General Manager – Coordination and Performance dated 20 June 2019 ("the Report") in accordance with section 230(1)(b) of the *Local Government Regulation 2012* for the appointment of a Retail Leasing Agent in relation to the Ipswich Central CBD Transformation Project be adopted by Council.**
- C. That Council appoint Ranbury Property Services Pty Ltd as retail leasing agent for the Ipswich Central CBD Transformation Project.**
- D. That the Chief Executive Officer be authorised to negotiate and finalise the terms of the appointment to be executed by Council and to do any other acts necessary to implement Council's decision in accordance with section 13(3) of the *Local Government Act 2009*.**

RELATED PARTIES

Ranbury Property Services Pty Ltd

ADVANCE IPSWICH THEME LINKAGE

Strengthening our local economy and building prosperity

PURPOSE OF REPORT/BACKGROUND

As part of Ipswich City Council's ("Council") overall CBD Redevelopment Strategy, Ipswich City Properties Pty Ltd (ICP), acquired the properties of Ipswich City Square in March 2009, and later, 2 Bell Street in February 2018 within the Ipswich CBD.

Council then entered into a Development Management Agreement (DMA) with ICP, for the development of the Civic Space, Library and Car park and Council resolved to construct and own a new Administration Building in the CBD. Alongside these works, ICP would be responsible for the redevelopment of retail spaces within Ipswich City Square and 2 Bell Street. This included identifying and implementing strategies to secure the most suitable tenants for retail spaces following completion of redevelopment works.

At the Council Meeting of 16 October 2018, ICC resolved to wind-up operations of ICP.

An Officers' Report will be presented at the 27 June 2019 Special Council meeting requesting resolution for the adoption of recommendations to transfer assets, operating and redevelopment activities of ICP to ICC. Once the properties transfer to Council, Council will be responsible for delivery of the retail leasing strategy and the leasing responsibilities will transfer over to ICC.

Council therefore will need to appoint a leasing agent with the appropriate registrations and licences to act as the leasing agent for the Ipswich Central CBD Transformation Project.

To ensure consistency in the delivery of the leasing strategy and to maintain market confidence in relation to the leasing opportunities and the broader CBD Redevelopment Project, a detailed Tender Consideration Plan has been prepared in relation to Council not undertaking a full tender process for the appointment of an agent and recommending the appointment of the Retail Leasing Agent currently appointed by Ipswich City Properties Pty Ltd.

Appointment of Leasing Agents by ICP

To seek recommendations on the most appropriate leasing agent and strategy to achieve the agreed retail goals, Whittaker Property Group was engaged by ICP to provide this and a report dated 6 June 2018 *Retail Leasing Agency Recommendations for Ipswich Central* was tabled at the 26 June 2018 ICP Board meeting and the Board resolved to further review the leasing agent appointment. This report is included in confidential Attachment 2.

A report titled the *Retail Strategy & Marketing Sounding Update for Ipswich Central Project* was presented at the 19 December 2018 ICP Board meeting. That report was presented by a (now former) officer of Council and included incorrect advice to the new ICP Board (being the Interim Administrator) that indicated the former Board had already resolved to appoint Ranbury Property Services Pty Ltd as the leasing agent for the Ipswich Central CBD Transformation Project based on the Whittaker report. On that advice, the ICP Board

resolved at the 19 December 2018 meeting to appoint Ranbury Property Services Pty Ltd as the leasing agent.

The appointment of Ranbury Property Services Pty Ltd by ICP in December 2018 as leasing agent is consistent with the independent recommendation of the Whittaker Property Group as per Attachment 2.

The inconsistent advice by the former Council officer to the ICP Board on 19 December 2018 was brought to the attention of the ICP Board on 24 June 2019.

Full details of the timeframes, processes, officer report recommendations and board resolutions that lead to the appointment of Ranbury is set out in the Tender Consideration Plan (Attachment 1).

FINANCIAL/RESOURCE IMPLICATIONS

Any additional resources required as a result of the engagement of Ranbury Property Services Pty Ltd as retail leasing agent for the Ipswich Central CBD Transformation Project will be funded within current project budget allocations.

RISK MANAGEMENT IMPLICATIONS

If a leasing agent is not appointed by Council, then leasing opportunities in relation to the Ipswich Central Redevelopment Project will not be able to be marketed by an external agent. This will put at risk the delivery of the retail strategy as Council does not have the expertise internally.

LEGAL/POLICY BASIS

This report and its recommendations are consistent with the following legislative provisions: *Section 230(1) (a) and (b) of the Local Government Regulation 2012*

COMMUNITY AND OTHER CONSULTATION

Nil

CONCLUSION

To ensure continuity of Project works in regards to retail leasing, it is recommended that Council agree to appoint Ranbury Property Services Pty Ltd as retail leasing agent for Ipswich Central CBD Transformation Project.

ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS

1.	Tender Consideration Plan  
	CONFIDENTIAL
2.	Retail Leasing Agency Recommendations for Ipswich Central

Sean Madigan

GENERAL MANAGER - COORDINATION AND PERFORMANCE

I concur with the recommendations contained in this report.

Andrew Knight

GENERAL MANAGER - CORPORATE SERVICES

“Together, we proudly enhance the quality of life for our community”



Ipswich Central

Tender Consideration Plan:

Appointment of Retail Leasing Agent – Ipswich Central CBD Transformation Project

20 June 2019





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1. BACKGROUND

As part of Ipswich City Council's (ICC's) overall CBD Redevelopment Strategy, Ipswich City Properties Pty Ltd (ICP), acquired the properties of Ipswich City Square in March 2009, and later, 2 Bell Street in February 2018 within the Ipswich CBD.

ICC then entered into a Development Management Agreement (DMA) with ICP, for the development of the Civic Space, Library and Car park and ICC resolved to construct and own a new Administration Building in the CBD. Alongside these works, ICP would be responsible for the redevelopment of retail spaces within Ipswich City Square and 2 Bell Street. This included identifying and implementing strategies to secure the most suitable tenants for retail spaces following completion of redevelopment works.

At the Council Meeting of 16 October 2018, ICC resolved to wind-up operations of ICP.

An Officers' Report will be presented at the 27 June 2019 Special Council meeting requesting resolution for the adoption of recommendations to transfer assets, operating and redevelopment activities of ICP to ICC. Once the properties transfer to ICC, ICC will be the responsible for delivery of the retail leasing strategy and the leasing responsibilities will transfer over to ICC.

ICC therefore will need to appoint a leasing agent with the appropriate registrations and licences to act as the leasing agent for the Ipswich Central CBD Transformation Project.

To ensure consistency in the delivery of the leasing strategy and to maintain market confidence in relation to the leasing opportunities and the broader CBD Redevelopment Project, a detailed Tender Consideration Plan has been prepared in relation to ICC not undertaking a full tender process for the appointment of an agent and recommending the appointment of the Retail Leasing Agent currently appointed by Ipswich City Properties Pty Ltd.

Market Assessment of Leasing Agents on behalf of Ipswich City Properties Pty Ltd

To seek recommendations on the most appropriate leasing agent and strategy to achieve the agreed retail goals, Whittaker Property Group was engaged by ICP and a report dated 6 June 2018 *Retail Leasing Agency Recommendations for Ipswich Central* was tabled at the 26 June 2018 ICP Board meeting. This report is included in confidential Attachment 2.

The Whittaker report assessed a range of opportunities to achieve the goals of ICC. It identified the state of the current retail market, noting common practice for 'main-stream' real estate agencies which would not necessarily be consistent with ICC's objectives in developing a space with retailers that are complimentary with remainder of the redevelopment. The report also noted generally lack the resources and experience in 'main-stream' real estate agencies to undertake a project of this nature.

In the major retail sector, most leasing work is handled 'in-house' by the retail owners/developers, and with the inability to compete for resources, would find it difficult to service projects such as Ipswich City Square. It was recommended to consider individual consultants/agents which specialise in leasing, tenancy mix, and design advice services.

The recommended profile for such retail agents included but was not restricted to:

- Experienced Retail Leasing background with proven track record and resources required in delivering projects of the size and nature of Ipswich Central.
- Extensive and current contract network with the retailers, with knowledge of current retail deals and what individual retailers are seeking.
- Strong understanding of the design drivers in planning & delivering a successful project.
- Network of retail specialist consultants such as architects, demographers, etc.

Item E.6 / Attachment 1.



- Understanding tenancy mix and how that impacts the success of the project.
- Delivering projects in line with budgeted time frames and desired outcomes.

Five (5) groups were approached, with a short-list of three (3) groups recommended for consideration. Written proposals were received from each of these three (3) groups, and assessed against the above profile.

After further discussions and meetings with each group was conducted, carefully reviewing their proposed resource allocation, experience and financial proposals, one of the recommendations made by the Whittaker Property Group was:

“Based on my understanding of the requirements on ICP for this role, Ranbury Property are currently best placed to add value to the existing arrangements, on both the strategic part of the role as well as the lease resourcing.”

Process leading to the appointment of Ranbury Property Group Pty Ltd by Ipswich City Properties Pty Ltd

1. The report prepared by Whittaker Property Group dated 6 June 2018 *Retail Leasing Agency Recommendations for Ipswich Central*, was tabled at the 26 June 2018 ICP Board meeting.
2. The ICP Board discussed the report and strategy at the meeting on 6 June 2018 and passed the following resolutions:
 - *“The Board resolved to receive and note the report of recommendation from Whittaker Property Group dated 6 June 2018; and*
 - *The Board resolved to review the recommendation noted therein to appoint Ranbury as joint leasing agents along with the currently appointed leasing agents LJ Hooker Commercial on the terms and conditions as stated in the report”*
3. At the 19 December 2018 ICP Board meeting, a report was presented by a (now former) officer of Council titled, *Retail Strategy & Marketing Sounding Update for Ipswich Central Project*. The report contained the following recommendation to the Board:
 - *“Leasing services be re-engaged for commencement 7th January 2019, in accordance with the previous board approval. This previous approval was granted on 26th June 2018 following the competitive tender process and independent recommendation from Whittaker Property dated 6th June 2018. A Form 6 is attached and recommended for execution accordingly.”*
 - This officer’s recommendation included incorrect advice indicating that a previous Board meeting on 26th June 2018 had approved the appointment of the leasing agent.
4. Based on the advice and officer recommendation, the new Board (being the Interim Administrator), at its meeting on 19 December 2018, passed the following resolutions: :
 - *“Note the Board report tabled by (name removed) at the meeting entitled ‘Retail Strategy and Market Sounding Update for Ipswich Central Project’ and the advice received from (name removed) on the significant level of retail leasing interest that has been generated thus far.*
 - *Note the Form 6 tabled at the meeting for the appointment of Ranbury as leasing agents for the Ipswich Central Redevelopment Project and resolved that (name removed) be authorised to execute the document on behalf of ICP.”*

Item E.6 / Attachment 1.



5. The Form 6 document was subsequently executed on 19 December 2018 between ICP and Ranbury Properties Services Pty Ltd.
6. The inconsistent advice by the former Council officer to the ICP Board on 19 December 2018 was brought to the attention of the ICP Board on 24 June 2019.

The appointment of Ranbury Property Services Pty Ltd by ICP in December 2018 as leasing agent is consistent with the independent recommendation of the Whittaker Property Group.

2. OBJECTIVES

This tender consideration plan is intended to fulfil the following objectives:

OBJECTIVES	
1	The retail leasing responsibilities of ICP once transferred to ICC should proceed in a timely manner with continuity of market and tenant activity, delivery of the leasing strategy and continued market confidence in the Ipswich CBD Redevelopment Project
2	Document ICC's decision not to seek quotes or tenders and to appoint a retail leasing agent
3	Consideration of the five (5) sound contracting principles outlined in the Local Government Act 2009
4	Key risks associated with appointing the leasing agent be identified and mitigated

3. HOW WILL OBJECTIVES BE ACHIEVED

The objectives identified for the TCP in section 3 will be achieved by the actions detailed in the following table:

	OBJECTIVE	ACHIEVED BY
1	The retail leasing responsibilities of ICP once transferred to ICC should proceed in a timely manner with continuity of market and tenant activity	The proposed appointment of the existing retail leasing agent for the CBD redevelopment of Ipswich City Square will enable the timely continuation of the redevelopment and retail leasing strategies. The appointment ensures there are no delays or periods of time in which a leasing agent is not appointed, momentum is maintained in relation to current possible tenant activity generated and there is no market uncertainty created if Council was to put out a new open tender to procure a leasing agent.
2	Document ICC's decision not to seek quotes or tenders and to appoint a retail leasing agent	This plan outlines the objectives and reasons to support the recommendation to appoint the existing retail leasing agent for the CBD redevelopment of Ipswich City Square without initially undertaking a quote or tender process, ensuring consideration is given to the sound contracting principles.
3	Consideration of the five (5) sound	As outlined in the background to this plan; ICP engaged an independent organisation, Whittaker Property Group, to provide

Item E.6 / Attachment 1.



	contracting principles outlined in the Local Government Act 2009	<p>recommendations on the most appropriate leasing agent and strategy to achieve the agreed goals. The report from Whittaker property Group is the confidential Attachment 2 to the officer's report. The process undertaken, including assessment of possible people / agencies and seeking written proposals from a shortlist of potential agents, is set out in more detail in Section 5.</p> <p>Whilst a full external tender process was not undertaken in accordance with ICP Procurement Policy consistent with Council policy, the process undertaken by the independent specialist is aligned with the Sound Contracting Principles.</p>
4	Key risks associated with appointing the leasing agent be identified and mitigated	Evaluate levels of various risk profiles with mitigation strategies to be implemented.

4. HOW WILL ACHIEVEMENTS BE MEASURED

To following table details the measurements required to confirm objectives are achieved:

	OBJECTIVE ACHIEVED BY	MEASUREMENT
1	The retail leasing responsibilities of ICP once transferred to ICC should proceed in a timely manner with continuity of market and tenant activity	<p>The measurement of the achievement of the objective will be monitored by achievement of the leasing strategy, the level of tenant interest generated and leasing terms agreed</p> <p>The operations of Ipswich City Square are now part of the Coordination and Performance Department which will be responsible for the ongoing delivery of services.</p>
2	Document ICC's decision not to seek quotes or tenders and to appoint a retail leasing agent	Acceptance of this plan and recommendations by ICC.
3	Consideration of the five (5) sound contracting principles outlined in the Local Government Act 2009	The delivery of services by the retail leasing agent as part of the CBD redevelopment will be managed and monitored by the project team in accordance with the agreed retail strategy.
4	Key risks associated with appointing the leasing agent be identified and mitigated	Ensure mitigation strategies provide significant effect on reducing the evaluated risk level.



5. IDENTIFICATION & ANALYSIS OF ALTERNATIVES:

The analysis of reasons to support the appointment of a retail leasing agent without initially undertaking a quote or tender process is set out below.

The alternative option was for ICC to undertake a new tender process for the appointment of a retail leasing agent. The timeframes of undertaking this process would mean that the occupancy of retail spaces following the redevelopment could be delayed and may have an adverse effect on the overall successful delivery of the Project. The opening of the Civic Space and Library to the public, is meant to coincide with the opening of the retail space. As market sounding and engagement prospective tenants has been occurring, changing leasing agents would have an adverse effect on market confidence in the Project's ability to deliver the agreed leasing strategy. There would be also a risk in leasing contacts being lost with prospective tenants.

In addition, to minimise the risks of the project, ICC needs to ensure that the intellectual property, knowledge, etc be transferred to ICC.

As noted in section 1 of this TCP, appointment by ICP in December 2018 of Ranbury Property Services Pty Ltd followed a detailed review by Whittaker Property Group on behalf of ICP, identifying a range of potential local and non-local agents from major agencies, second-tier agencies and specialised agencies. A short-list of recommended agents provided written proposals, followed by further discussions to provide clarity around key issues.

Assessments to determine the most suitable leasing agent was based on a number of criteria:

- Experience
- Track Record
- Resourcing
- Approach
- Fees and Costs
- Commitment

6. PROPOSED TERMS OF CONTRACTS

The recommendation is to appoint Ranbury Property Group as the leasing agent on an exclusive basis. The term of appointment is to commence on 27 June 2019 (following termination of the existing ICP engagement) and end on 30 March 2020, and may be terminated in writing with 30 days' notice, or less if both parties agree.

The details (commission, scope, etc) of the proposed ICC appointment of Ranbury Property Services will remain the same as those under the current engagement by ICP, and this will be reflected on the new *Property occupations Form 6 – Appointment and reappointment of a property agent, resident letting agent or property auctioneer* document.



7. RISK ANALYSIS OF MARKET FROM WHICH SERVICES ARE TO BE OBTAINED:

The key risks identified when assessing the market from which the services are obtained is the ability for the project to continue without further delay and to ensure that ICC has the intellectual property supplied to ICP transferred. If the project is delayed further, then the overall net cost to ICC would escalate.

In addition, if the current retail leasing agent is not appointed by ICC, then the risk of not successfully delivering the project on schedule would be higher as the project knowledge in relation to the leasing of future redeveloped retail spaces could be lost.

The following general risks and mitigation strategies have been identified in relation to ICC appointing a leasing agent:

Financial Risk		Risk Level
Event	Ranbury Property Services tried to request a revision of their fee as part of the reengagement	Low
Likelihood	Unlikely	
Consequence	Minimal	
Mitigation	Ranbury Property Services have been advised of this potential change in client. There is no indication or expectation they will adjust their fee.	

Legal & Governance		Risk Level
Event	Nil	N/A
Likelihood		
Consequence		
Mitigation	Engagement is via standard Queensland Government <i>Form 6 – Appointment and reappointment of a property agent, resident letting agent or property auctioneer.</i>	

Political / Reputation		Risk Level
Event	No leasing agent was appointed or agent did not accept appointment	Low
Likelihood	Rare	
Consequence	Minimal	
Mitigation	At the 16 October 2018 (public) Council meeting, ICC resolved to wind-up operations of ICP. Communication has been made with Ranbury recently as to the possibility of changes in agreements/appointments, subject to a final decision by ICC. No issues raised. The appointment under this TCP ensures consistency of have a leasing agent appointed.	

Item E.6 / Attachment 1.



Community and Environment		Risk Level
Event	None	
Likelihood	N/A	N/A
Consequence	N/A	
Mitigation	There is no perceived Community or Environmental risk due to delivering the objectives of this TCP.	

Health & Safety		Risk Level
Event	None	
Likelihood	N/A	N/A
Consequence	N/A	
Mitigation	There is no perceived Health & Safety risk due to delivering the objectives of this TCP.	

Service Delivery / Business Continuity		Risk Level
Event	Delay in executing Queensland Government Agency form	
Likelihood	Possible	Moderate
Consequence	Moderate	
Mitigation	All signatories are local will not be subject to any detailed review or legal advice.	

Information Confidentiality, Integrity and Accessibility		Risk Level
Event	Information and Knowledge of the Project not transferred to ICC	
Likelihood	Possible	Moderate
Consequence	Moderate	
Mitigation	<p>The strategy document and other activities and reports produced to date by the Consultant have been supplied to the Project Team. There is no formal agreement in place other than the Queensland Government <i>Form 6 – Appointment and reappointment of a property agent, resident letting agent or property auctioneer.</i></p> <p>The proposal under this TCP to appoint the same agent as currently engaged by ICP ensures consistency of information and knowledge</p>	



8. SUMMARY

To ensure continuity of the Project leasing strategy, prospective tenant engagement and market confidence in the CBD redevelopment project, it is recommended for ICC to appoint Ranbury Property Services Pty Ltd as the leasing agent for the Ipswich Central CBD Transformation Project.