



# City of Ipswich

**IPSWICH  
CITY  
COUNCIL**

**AGENDA**

*of the*

**COUNCIL SPECIAL MEETING**

**Held in the Council Chambers  
8th floor – 1 Nicholas Street  
IPSWICH QLD 4305**

On Thursday, 14 July 2022

At 10 minutes after the conclusion of the Ipswich Central Redevelopment Committee

The purpose of the meeting is to consider:

1. Nicholas Street Precinct - Approval of an Agreement for Lease for Metro B Tenancy 2B04
2. Nicholas Street Precinct - Approval of an Agreement for Lease for Metro B Tenancy 2B05
3. Nicholas Street Precinct - Approval of an Agreement for Lease for Eats Tenancy T3
4. Nicholas Street Precinct - Approval of an Agreement for Lease for Metro B Tenancy 2B11
5. Nicholas Street Precinct - Approval of an Agreement for Lease for Metro B Tenancy 2B14

**BUSINESS**

- 1. OPENING OF MEETING:
- 2. WELCOME TO COUNTRY OR ACKNOWLEDGEMENT OF COUNTRY:
- 3. OPENING PRAYER:
- 4. APOLOGIES AND LEAVE OF ABSENCE:
- 5. DECLARATIONS OF INTEREST IN MATTERS ON THE AGENDA:
- 6. OFFICERS' REPORTS:

These reports will be considered at the Ipswich Central Redevelopment Committee held immediately prior and recommended for formal adoption to this Special Council Meeting.

- 6.1 Nicholas Street Precinct - Approval of an Agreement for Lease for Metro B Tenancy 2B04 ..... 5
- 6.2 Nicholas Street Precinct - Approval of an Agreement for Lease for Metro B Tenancy 2B05 ..... 21
- 6.3 Nicholas Street Precinct - Approval of an Agreement for Lease for Eats Tenancy T3 ..... 37
- 6.4 Nicholas Street Precinct - Approval of an Agreement for Lease for Metro B Tenancy 2B11 ..... 53
- 6.5 Nicholas Street Precinct - Approval of an Agreement for Lease for Metro B Tenancy 2B14 ..... 69

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Doc ID No: A8163845

ITEM: 6.1

SUBJECT: NICHOLAS STREET PRECINCT - APPROVAL OF AN AGREEMENT FOR LEASE FOR METRO B TENANCY 2B04

AUTHOR: PROJECT MANAGER

DATE: 7 JULY 2022

### **EXECUTIVE SUMMARY**

This is a report concerning an agreement for lease for council's consideration associated with tenancy 2B04 within the Nicholas Street Precinct's Metro B Building.

### **RECOMMENDATIONS**

- A. That Council enter into an Agreement for Lease and an associated document of the Agreement for Lease with the proposed lessee for Tenancy 2B04 in the Metro B Building (impacting part of Lot 1 on RP157021) ("Tenancy 2B04") within the Nicholas Street Precinct (under the commercial terms detailed in the confidential report and attachments by the Project Manager dated 28 June 2022).**
- B. That conditional upon Council satisfactorily executing the Agreement to Lease with the proposed lessee, (contained in recommendation A of this report), Council enter into a lease for Tenancy 2B04 with the proposed lessee (as detailed in the confidential report and attachments by the Project Manager dated 28 June 2022).**
- C. That Council note, that in relation to Council's disposal of its leasehold interest in Tenancy 2B04 to the proposed lessee, that the Ministerial exemption under s236 (f) of the *Local Government Regulation 2012* applies to the disposal of Council's interest in Tenancy 2B04 (Ministerial exemption contained in Attachment 1 of this report).**
- D. That pursuant to Section 257(1)(b) of the *Local Government Act 2009*, Council resolve to delegate to the Chief Executive Officer the power to take "contractual action" pursuant to section 238 of the Regulation, in order to implement Council's decision at Recommendation B.**
- E. That Council be kept informed as to the progress and outcome of the execution and publication of details.**

### **RELATED PARTIES**

Ranbury Property Services - Retail Leasing Agent

Knight Frank Valuation & Advisory Queensland – Independent Market Appraisal  
Councillor Fechner may have a potential conflict of interest in relation to this matter  
Councillor Madsen may have a potential conflict of interest in relation to this matter

## IFUTURE THEME

Vibrant and Growing

## PURPOSE OF REPORT/BACKGROUND

In 2019 council was granted a ministerial exemption under section 236 (1)(f) of the *Local Government Regulation 2012* (Regulation) for the disposal of valuable non-current assets (leases and sub-leases) associated with the Nicholas Street Precinct redevelopment. To ensure council had sufficient time to fully implement its retail strategy, council sought and was granted an exemption until 30 June 2023. The goal of the exemption was to allow council to efficiently and effectively implement its retail strategy through the disposal of leases and State sub-leases (held by council) by more appropriate, market accepted, transactional means other than by a tender or auction process mandated under section 227 of the Regulation.

This exemption was sought as retail leasing is generally not undertaken through a tender or auction process. It is a specialised process undertaken by experienced retail leasing firms with relationships with the types of tenants targeted for a project. These relationships allow conversations to explain a project and the opportunities tailored to each prospective tenant. The retail leasing agent, appointed by council, has and continues to actively market the subject tenancies to prospective tenants.

Further, industry advice confirmed it would be highly likely that any tender or auction process for the retail tenancies would receive very limited responses and that any response would not contain the commercial terms sought by council. In addition, these processes would be inherently incapable of creating the desired mix and style of lessee council is seeking for its food and beverage and entertainment/leisure tenancies.

As part of the exemption approval process, council committed to adhere to the sound contracting principles detailed in section 104(3) of the *Local Government Act 2009*, specifically through a number of proposed safeguards to ensure openness and transparency with regard to the related transactions. Correspondence from the then Minister of Local Government dated 24 September 2019 (refer Attachment 1) confirmed approval of the exemption (for both council's retail and commercial tenancies). Further, this approval conditioned the exemption on compliance with the activities proposed by council to address the sound contracting principles as outlined in council's letter to the then Department of Local Government, Racing and Multicultural Affairs dated 10 September 2019 (refer Attachment 2). Specifically, this requires the following condition be met "each lease/sublease to be approved by the Economic Development Committee and then full council prior to its execution (agendas, papers and minutes all publicly accessible)". **(Note: all related precinct matters are now managed by the Ipswich Central Redevelopment Committee).** This process will be utilised for each individual retail (and future commercial) lease arrangement.

This paper is seeking council's approval to enter into an agreement for lease for a food tenancy associated with the Nicholas Street Precinct redevelopment utilising the process detailed above. The agreement for lease relates to a sub-lease for one of terrace tenancies in the Metro B building which fronts/overlooks Union Place being 2B04 tenancy (72 m<sup>2</sup>). Council holds the leasehold interest from Queensland Rail (Lease No. 601375840) over the Metro B Building with the long-term lease expiring on 27 November 2077. The Metro B Building impacts part of lot 1RP157021 (over the rail line).

A lease is a contract by which one party conveys land, property, services, etc. to another for a specified term, and in this instance in return for a periodic payment. The lease agreement outlines all of the aspects of the lease arrangement so that each party understands their rights and obligations under the lease. An agreement for lease is necessary when the party owning the land is investing significant capital into refurbishing or building new space for the potential lessee. The agreement for lease pre-empts and contractually links to the final lease document whilst committing both parties to enter into a lease on occupation and/or opening of the space. Essentially an agreement for lease de-risks the landlord's capital expenditure with a contracted outcome.

The Nicholas Street Precinct team will be negotiating up to 40 retail, food and beverage and leisure deals over the next few years. During this process and with the desire to drive the best financial outcome for council and its constituents, the precinct team need to protect this outcome by maintaining a competitive advantage during the negotiations, which can only happen with an element of confidentiality. The lessees will also seek and in most cases secure contractual obligations on both parties to maintain a level of confidentiality around commercially sensitive material. This is likely to be around key terms like rent, term, options to extend, landlord' contributions, sales data access and general operational costs of the tenancy.

The brand names associated with each executed agreement for lease will be released prior to the tenant's opening with the precinct team's desire being to drive marketing reach across relating real estate and retail industry media channels to best serve the leasing uptake. Announcements relating to Metro B lessees are planned to be released in batches in 2022. As a result, the lessee's details and agreed commercial terms to be reflected in the lease documentation are Commercial in Confidence. A memorandum of advice detailing the Commercial in Confidence nature of the content of this report is attached (refer confidential Attachment 3). Specific details on the lessee, the commercial terms and proposed tenure length are contained in confidential Attachments 4 - 6).

Council engaged Knight Frank Valuation & Advisory Queensland to provide an independent market appraisal of each proposed lease arrangement's commercial terms as detailed in a Heads of Agreement (a precursor to an agreement for lease/Lease detailing agreed commercial terms between the parties). This advice is considered by council prior to the Chief Executive Officer endorsing any Heads of Agreement progressing to the preparation of related legal documentation including agreements for lease, leases and associated documentation. Knight Frank's review of Metro B tenancy 2B03 is attached (refer confidential Attachment 5). Also attached is the Lease Deal Approval Report for Metro B tenancy 2B04 (refer confidential Attachment 6). Confidential Attachment 4 details material changes with the commercial terms from the Knight Frank review of the initial deal proposed

in the adjoining Metro B tenancy 2B03 to the preparation of the agreement for lease for the current proposal for Metro B tenancy 2B04.

This paper seeks approval for council to enter into an agreement for lease for a food tenancy associated with the Nicholas Street Precinct redevelopment. The delegation to the Chief Executive Officer will enable council’s execution of the agreement for lease, the lease and associated documentation for Metro B tenancy 2B04 and ensure the lessee can commence their fit-out works and opening as soon as possible.

Post the execution of the lease documentation for each tenancy, council will be provided with a subsequent report detailing lessee specifics and their offering.

**LEGAL/POLICY BASIS**

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

**RISK MANAGEMENT IMPLICATIONS**

The medium to long-term success and viability of both the retail precinct and the overall Ipswich Central CBD Redevelopment is heavily dependent on the retail leasing program delivering a tenancy mix comprising high-quality, commercially successful tenants. The approval and subsequent execution of further agreements for lease will send a positive signal to the retail leasing market around the precinct’s future success.

**HUMAN RIGHTS IMPLICATIONS**

HUMAN RIGHTS IMPACTS	
OTHER DECISION	
(a) What is the Act/Decision being made?	<p>Recommendation A relates to Council entering into an agreement for lease and an associated document for Metro B 2B04 tenancy.</p> <p>Recommendation B relates to Council entering into a lease for Metro B 2B04 tenancy.</p> <p>Recommendation C outlines how Council will apply a ministerial exemption to the disposal of a leasehold interest in the Metro B Building.</p> <p>Recommendation D delegates to the CEO the power to execute related lease documentation.</p> <p>Recommendation E relates to the provision of an update to council.</p>



(b) What human rights are affected?	No human rights are affected by this decision. This is because the prospective lessee is a company (only individuals have human rights).
(c) How are the human rights limited?	Not applicable.
(d) Is there a good reason for limiting the relevant rights? Is the limitation fair and reasonable?	Not applicable.
(e) Conclusion	The decision is consistent with human rights.

### FINANCIAL/RESOURCE IMPLICATIONS

The retail precinct's short-term commercial success remains dependent on identifying, attracting and securing a commercially viable tenancy mix through executed leases and sub-leases. Funding for the retail leasing agent's payments and any associated landlord contributions is incorporated into the project's budget.

### COMMUNITY AND OTHER CONSULTATION

The contents of this report did not require any community consultation.

Detailed consultation has occurred with the Department of State Development, Infrastructure, Local Government and Planning on the both the conditioned process and the associated documentation to be provided to council for AFL/lease approvals.





Council's Legal Services team have been consulted on the form and contents of this report and its attachments.

### CONCLUSION

The flexibility provided by the ministerial exemption over the Regulation's tender and auction provisions allows council to optimise the tenancy mix, the commercial outcomes and the long-term success for each tenancy and the project overall.

As a priority, the focus is to progress the conversion of endorsed Heads of Agreement into agreement for leases particularly as refurbishment works on both the Eats and Metro B buildings is completed. Approval of this agreement for lease within Nicholas Street Precinct's Metro B will continue the positive message to the Ipswich community and the market that the redevelopment is moving forward.

### ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS

1.	Ministerial Exemption Approval 24.9.19  
2.	Ministerial Exemption ICC Clarifications 10.9.19  
	CONFIDENTIAL
3.	NSP Retail Leases - Legal Advice

- |    |                                           |
|----|-------------------------------------------|
| 4. | Confidential Report - Metro B 2B04        |
| 5. | Knight Frank Assessment - Metro B 2B03    |
| 6. | Lease Deal Approval Report - Metro B 2B04 |

Greg Thomas  
**PROJECT MANAGER**

I concur with the recommendations contained in this report.

Sean Madigan  
**GENERAL MANAGER - INFRASTRUCTURE AND ENVIRONMENT**

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



Minister for Local Government,  
Minister for Racing and  
Minister for Multicultural Affairs

Our ref: MC19/4387

24 SEP 2019

Mr Greg Chemello  
Interim Administrator  
Ipswich City Council  
PO Box 191  
IPSWICH QLD 4305

1 William Street  
Brisbane Queensland 4000  
PO Box 15009  
City East Queensland 4002  
Telephone +61 7 3719 7560  
Email [lgma@ministerial.qld.gov.au](mailto:lgma@ministerial.qld.gov.au)  
Website [www.dlgma.qld.gov.au](http://www.dlgma.qld.gov.au)

ABN 65 959 415 158

Dear Greg

Thank you for your letter of 12 August 2019, seeking an exemption from compliance with the tender or auction requirements in section 227 of the Local Government Regulation 2012 (the Regulation) for the disposal of the Ipswich City Council's interest in land within the Ipswich Central Business District precinct.

I am advised that officers of the Department of Local Government, Racing and Multicultural Affairs subsequently met with Council officers to discuss the scope of the application and additional information necessary to assess the Council's application. Following this meeting, the Council provided the Department with a letter dated 10 September 2019, reducing the scope of its application to solely the leasing and sub-leasing component of the Council's original request, and providing the additional information requested by the Department.

Following an assessment of the Council's request, I have approved an exemption under section 236(1)(f) of the Regulation from compliance with section 227 of the Regulation for the leasing and sub-leasing of the Council's interest in land within the Ipswich Central Business District precinct, subject to the following conditions:

- The exemption relates to the properties identified in Attachment 1 to the Council's letter to the Department dated 10 September 2019, which provided additional information regarding the Council's application.
- The exemption is for a period up to 30 June 2023.
- The Council must comply with the activities proposed by the Council to address the sound contracting principles in section 104(3) of the *Local Government Act 2009*, as outlined in the Council's letter to the Department dated 10 September 2019.
- For the period of the exemption, the Council must provide a quarterly report to me detailing the exercise of this exemption. The report must include details of the status of all lease arrangements, an independent market appraisal of the lease, reasons for any lease being under market value and details of any conflicts of interest (COI) or material personal interest (MPI) held by the Interim Administrator, members of the Interim Management Committee, Councillor or employee of the Council in relation to each lease and how the COI or MPI was managed.

- For the period of the exemption, the Council must provide a six-monthly report to me on the CBD redevelopment project's overall implementation and achievements and its impacts on the wider Ipswich economy.

I have asked for Ms Rebecca McAnalen, Principal Regional Advisor (South), Local Government Division in the Department to assist you with any further queries. You may wish to contact Ms McAnalen on 3452 6738 or by email at [rebecca.mcanalen@dlgrma.qld.gov.au](mailto:rebecca.mcanalen@dlgrma.qld.gov.au).

Yours sincerely



**STIRLING HINCHLIFFE MP**  
Minister for Local Government,  
Minister for Racing and  
Minister for Multicultural Affairs

Greg Thomas  
(07) 3810 7080



**Ipswich City Council**

45 Roderick St  
PO Box 191  
Ipswich QLD 4305  
Australia

**Tel** (07) 3810 6666  
**Fax** (07) 3810 6731  
**Email** [council@ipswich.qld.gov.au](mailto:council@ipswich.qld.gov.au)  
**Web** [ipswich.qld.gov.au](http://ipswich.qld.gov.au)

Kent Wain  
Manager Southern Region  
Department of Local Government, Racing and Multicultural Affairs  
Level 3, 12 First Avenue  
Maroochydore QLD 4558

10 September 2019

Dear Mr Wain

**Re: Additional information re Ipswich City Council's request for exemption under section 236 (1)(f) of the *Local Government Regulation 2012* - Nicholas Street - Ipswich Central (CBD Redevelopment)**

With reference to departmental correspondence dated 26 August 2019 and the 28 August 2019 meeting between council, its consultants and officers of the Department of Local Government, Racing and Multicultural Affairs (DLGRMA), this correspondence provides the requested executive summary outlining (at a high-level) reasoning for pursuing the above ministerial exemption (exemption) together with responses to other clarifications sought by DLGRMA.

At the 28 August 2019 meeting, discussions occurred on both the scope and complexity of council's application dated 12 August 2019. As a result, council has modified its request for an exemption to solely the leasing and sub-leasing component of the original application. Council proposes that any future divestments within the precinct will be the subject of separate site-specific exemption applications. Given this, a number of the clarifications sought by your department specifically relating to the disposal of freehold or leasehold land are not dealt with in this correspondence (refer Attachment 8).

**Executive Summary**

Council is seeking a ministerial exemption under section 236 (1)(f) of the *Local Government Regulation 2012* (Regulation) for the disposal of valuable non-current assets (leases/sub-leases) associated with its Nicholas Street - Ipswich Central CBD redevelopment (the project). The exemption will allow council to efficiently and effectively implement its retail strategy through the disposal of related non-current assets (leases/sub-leases) by more appropriate, market accepted,

















Doc ID No: A8163848

ITEM: 6.2

SUBJECT: NICHOLAS STREET PRECINCT - APPROVAL OF AN AGREEMENT FOR LEASE FOR METRO B TENANCY 2B05

AUTHOR: PROJECT MANAGER

DATE: 7 JULY 2022

### EXECUTIVE SUMMARY

This is a report concerning an agreement for lease for council's consideration associated with tenancy 2B05 within the Nicholas Street Precinct's Metro B Building.

### RECOMMENDATION

- A. That Council enter into an Agreement for Lease and an associated document of the Agreement for Lease with the proposed lessee for Tenancy 2B05 in the Metro B Building (impacting part of Lot 1 on RP157021) ("Tenancy 2B05") within the Nicholas Street Precinct (under the commercial terms detailed in the confidential report and attachments by the Project Manager dated 28 June 2022).
- B. That conditional upon Council satisfactorily executing the Agreement to Lease with the proposed lessee, (contained in recommendation A of this report), Council enter into a lease for Tenancy 2B05 with the proposed lessee (as detailed in the confidential report and attachments by the Project Manager dated 28 June 2022).
- C. That Council note, that in relation to Council's disposal of its leasehold interest in Tenancy 2B05 to the proposed lessee, that the Ministerial exemption under s236 (f) of the *Local Government Regulation 2012* applies to the disposal of Council's interest in Tenancy 2B05 (Ministerial exemption contained in Attachment 1 of this report).
- D. That pursuant to Section 257(1)(b) of the *Local Government Act 2009*, Council resolve to delegate to the Chief Executive Officer the power to take "contractual action" pursuant to section 238 of the Regulation, in order to implement Council's decision at Recommendation B.
- E. That Council be kept informed as to the progress and outcome of the execution and publication of details.

### RELATED PARTIES

Ranbury Property Services - Retail Leasing Agent  
Knight Frank Valuation & Advisory Queensland – Independent Market Appraisal  
Councillor Fechner may have a potential conflict of interest in relation to this matter

Councillor Madsen may have a potential conflict of interest in relation to this matter

## **IFUTURE THEME**

Vibrant and Growing

## **PURPOSE OF REPORT/BACKGROUND**

In 2019 council was granted a ministerial exemption under section 236 (1)(f) of the *Local Government Regulation 2012* (Regulation) for the disposal of valuable non-current assets (leases and sub-leases) associated with the Nicholas Street Precinct redevelopment. To ensure council had sufficient time to fully implement its retail strategy, council sought and was granted an exemption until 30 June 2023. The goal of the exemption was to allow council to efficiently and effectively implement its retail strategy through the disposal of leases and State sub-leases (held by council) by more appropriate, market accepted, transactional means other than by a tender or auction process mandated under section 227 of the Regulation.

This exemption was sought as retail leasing is generally not undertaken through a tender or auction process. It is a specialised process undertaken by experienced retail leasing firms with relationships with the types of tenants targeted for a project. These relationships allow conversations to explain a project and the opportunities tailored to each prospective tenant. The retail leasing agent, appointed by council, has and continues to actively market the subject tenancies to prospective tenants.

Further, industry advice confirmed it would be highly likely that any tender or auction process for the retail tenancies would receive very limited responses and that any response would not contain the commercial terms sought by council. In addition, these processes would be inherently incapable of creating the desired mix and style of lessee council is seeking for its food and beverage and entertainment/leisure tenancies.

As part of the exemption approval process, council committed to adhere to the sound contracting principles detailed in section 104(3) of the *Local Government Act 2009*, specifically through a number of proposed safeguards to ensure openness and transparency with regard to the related transactions. Correspondence from the then Minister of Local Government dated 24 September 2019 (refer Attachment 1) confirmed approval of the exemption (for both council's retail and commercial tenancies). Further, this approval conditioned the exemption on compliance with the activities proposed by council to address the sound contracting principles as outlined in council's letter to the then Department of Local Government, Racing and Multicultural Affairs dated 10 September 2019 (refer Attachment 2). Specifically, this requires the following condition be met "each lease/sublease to be approved by the Economic Development Committee and then full council prior to its execution (agendas, papers and minutes all publicly accessible)". **(Note: all related precinct matters are now managed by the Ipswich Central Redevelopment Committee).** This process will be utilised for each individual retail (and future commercial) lease arrangement.

This paper is seeking council's approval to enter into an agreement for lease for a food and beverage tenancy associated with the Nicholas Street Precinct redevelopment utilising the process detailed above. The agreement for lease relates to a sub-lease for one of terrace

tenancies in the Metro B building which fronts/overlooks Union Place being 2B05 tenancy (492 m<sup>2</sup>). Council holds the leasehold interest from Queensland Rail (Lease No. 601375840) over the Metro B Building with the long-term lease expiring on 27 November 2077. The Metro B Building impacts part of lot 1RP157021 (over the rail line).

A lease is a contract by which one party conveys land, property, services, etc. to another for a specified term, and in this instance in return for a periodic payment. The lease agreement outlines all of the aspects of the lease arrangement so that each party understands their rights and obligations under the lease. An agreement for lease is necessary when the party owning the land is investing significant capital into refurbishing or building new space for the potential lessee. The agreement for lease pre-empts and contractually links to the final lease document whilst committing both parties to enter into a lease on occupation and/or opening of the space. Essentially an agreement for lease de-risks the landlord's capital expenditure with a contracted outcome.

The Nicholas Street Precinct team will be negotiating up to 40 retail, food and beverage and leisure deals over the next few years. During this process and with the desire to drive the best financial outcome for council and its constituents, the precinct team need to protect this outcome by maintaining a competitive advantage during the negotiations, which can only happen with an element of confidentiality. The lessees will also seek and in most cases secure contractual obligations on both parties to maintain a level of confidentiality around commercially sensitive material. This is likely to be around key terms like rent, term, options to extend, landlord' contributions, sales data access and general operational costs of the tenancy.

The brand names associated with each executed agreement for lease will be released prior to the tenant's opening with the precinct team's desire being to drive marketing reach across relating real estate and retail industry media channels to best serve the leasing uptake. Announcements relating to Metro B lessees are planned to be released in batches in 2022. As a result, the lessee's details and agreed commercial terms to be reflected in the lease documentation are Commercial in Confidence. A memorandum of advice detailing the Commercial in Confidence nature of the content of this report is attached (refer confidential Attachment 3). Specific details on the lessee, the commercial terms and proposed tenure length are contained in confidential Attachments 4 - 6).

Council engaged Knight Frank Valuation & Advisory Queensland to provide an independent market appraisal of each proposed lease arrangement's commercial terms as detailed in a Heads of Agreement (a precursor to an agreement for lease/Lease detailing agreed commercial terms between the parties). This advice is considered by council prior to the Chief Executive Officer endorsing any Heads of Agreement progressing to the preparation of related legal documentation including agreements for lease, leases and associated documentation. Knight Frank's review of Metro B tenancy 2B05 is attached (refer confidential Attachment 5). Also attached is the Lease Deal Approval Report for Metro B tenancy 2B05 (refer confidential Attachment 6). Confidential Attachment 4 details material changes with the commercial terms from the Knight Frank review to the preparation of the agreement for lease.

This paper seeks approval for council to enter into an agreement for lease for a food and beverage tenancy associated with the Nicholas Street Precinct redevelopment. The delegation to the Chief Executive Officer will enable council's execution of the agreement for

lease, the lease and associated documentation for Metro B tenancy 2B05 and ensure the lessee can commence their fit-out works and opening as soon as possible.

Post the execution of the lease documentation for each tenancy, council will be provided with a subsequent report detailing lessee specifics and their offering.

### LEGAL/POLICY BASIS

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

*Local Government Act 2009*

*Local Government Regulation 2012*

### RISK MANAGEMENT IMPLICATIONS

The medium to long-term success and viability of both the retail precinct and the overall Ipswich Central CBD Redevelopment is heavily dependent on the retail leasing program delivering a tenancy mix comprising high-quality, commercially successful tenants. The approval and subsequent execution of further agreements for lease will send a positive signal to the retail leasing market around the precinct's future success.

### HUMAN RIGHTS IMPLICATIONS

HUMAN RIGHTS IMPACTS	
OTHER DECISION	
(a) What is the Act/Decision being made?	<p>Recommendation A relates to Council entering into an agreement for lease and an associated document for Metro B 2B05 tenancy.</p> <p>Recommendation B relates to Council entering into a lease for Metro B 2B05 tenancy.</p> <p>Recommendation C outlines how Council will apply a ministerial exemption to the disposal of a leasehold interest in the Metro B Building.</p> <p>Recommendation D delegates to the CEO the power to execute related lease documentation.</p> <p>Recommendation E relates to the provision of an update to council.</p>
(b) What human rights are affected?	No human rights are affected by this decision. This is because the prospective lessee is a company (only individuals have human rights).
(c) How are the human rights limited?	Not applicable.
(d) Is there a good reason for limiting	Not applicable.



the relevant rights? Is the limitation fair and reasonable?	
(e) Conclusion	The decision is consistent with human rights.

### FINANCIAL/RESOURCE IMPLICATIONS

The retail precinct's short-term commercial success remains dependent on identifying, attracting and securing a commercially viable tenancy mix through executed leases and sub-leases. Funding for the retail leasing agent's payments and any associated landlord contributions is incorporated into the project's budget.

### COMMUNITY AND OTHER CONSULTATION

The contents of this report did not require any community consultation.

Detailed consultation has occurred with the Department of State Development, Infrastructure, Local Government and Planning on the both the conditioned process and the associated documentation to be provided to council for AFL/lease approvals.





Council's Legal Services team have been consulted on the form and contents of this report and its attachments.

### CONCLUSION

The flexibility provided by the ministerial exemption over the Regulation's tender and auction provisions allows council to optimise the tenancy mix, the commercial outcomes and the long-term success for each tenancy and the project overall.

As a priority, the focus is to progress the conversion of endorsed Heads of Agreement into agreement for leases particularly due to the completion of refurbishment works on both the Eats and Metro B buildings. Approval of this agreement for lease within Nicholas Street Precinct's Metro B will continue the positive message to the Ipswich community and the market that the redevelopment is moving forward.

### ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS

1.	Ministerial Exemption Approval 24.9.19 <a href="#"></a> <a href="#"></a>
2.	Ministerial Exemption ICC Clarifications 10.9.19 <a href="#"></a> <a href="#"></a>
	CONFIDENTIAL
3.	NSP Retail Leases - Legal Advice
4.	Confidential Report - Metro B 2B05
5.	Knight Frank Assessment - Metro B 2B05
6.	Lease Deal Approval Report - Metro B 2B05

Greg Thomas  
**PROJECT MANAGER**

I concur with the recommendations contained in this report.

Sean Madigan

**GENERAL MANAGER - INFRASTRUCTURE AND ENVIRONMENT**

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























Doc ID No: A8163849

ITEM: 6.3

SUBJECT: NICHOLAS STREET PRECINCT - APPROVAL OF AN AGREEMENT FOR LEASE FOR EATS TENANCY T3

AUTHOR: PROJECT MANAGER

DATE: 7 JULY 2022

### EXECUTIVE SUMMARY

This is a report concerning an agreement for lease for council's consideration associated with tenancy T3 within the Nicholas Street Precinct's Eats Building.

### RECOMMENDATION

- A. That Council enter into an Agreement for Lease and an associated document of the Agreement for Lease with the proposed lessee for Tenancy T3 in the Eats Building (impacting lots 2RP209886, 3RP212242 and 1SP307972) ("Tenancy T3") within the Nicholas Street Precinct (under the commercial terms detailed in the confidential report and attachments by the Project Manager dated 28 June 2022).
- B. That conditional upon Council satisfactorily executing the Agreement to Lease with the proposed lessee, (contained in recommendation A of this report), Council enter into a lease for Tenancy T3 with the proposed lessee (as detailed in the confidential report and attachments by the Project Manager dated 28 June 2022).
- C. That Council note, that in relation to Council's disposal of its leasehold interest in Tenancy T3 to the proposed lessee, that the Ministerial exemption under s236 (f) of the *Local Government Regulation 2012* applies to the disposal of Council's interest in Tenancy T3 (Ministerial exemption contained in Attachment 1 of this report).
- D. That pursuant to Section 257(1)(b) of the *Local Government Act 2009*, Council resolve to delegate to the Chief Executive Officer the power to take "contractual action" pursuant to section 238 of the Regulation, in order to implement Council's decision at Recommendation B.
- E. That Council be kept informed as to the progress and outcome of the execution and publication of details.

### RELATED PARTIES

Ranbury Property Services - Retail Leasing Agent

Knight Frank Valuation & Advisory Queensland – Independent Market Appraisal

Councillor Fechner may have a potential conflict of interest in relation to this matter  
Councillor Madsen may have a potential conflict of interest in relation to this matter

## **IFUTURE THEME**

Vibrant and Growing

## **PURPOSE OF REPORT/BACKGROUND**

In 2019 council was granted a ministerial exemption under section 236 (1)(f) of the *Local Government Regulation 2012* (Regulation) for the disposal of valuable non-current assets (leases and sub-leases) associated with the Nicholas Street Precinct redevelopment. To ensure council had sufficient time to fully implement its retail strategy, council sought and was granted an exemption until 30 June 2023. The goal of the exemption was to allow council to efficiently and effectively implement its retail strategy through the disposal of leases and State sub-leases (held by council) by more appropriate, market accepted, transactional means other than by a tender or auction process mandated under section 227 of the Regulation.

This exemption was sought as retail leasing is generally not undertaken through a tender or auction process. It is a specialised process undertaken by experienced retail leasing firms with relationships with the types of tenants targeted for a project. These relationships allow conversations to explain a project and the opportunities tailored to each prospective tenant. The retail leasing agent, appointed by council, has and continues to actively market the subject tenancies to prospective tenants.

Further, industry advice confirmed it would be highly likely that any tender or auction process for the retail tenancies would receive very limited responses and that any response would not contain the commercial terms sought by council. In addition, these processes would be inherently incapable of creating the desired mix and style of lessee council is seeking for its food and beverage, service and entertainment/leisure tenancies.

As part of the exemption approval process, council committed to adhere to the sound contracting principles detailed in section 104(3) of the *Local Government Act 2009*, specifically through a number of proposed safeguards to ensure openness and transparency with regard to the related transactions. Correspondence from the then Minister of Local Government dated 24 September 2019 (refer Attachment 1) confirmed approval of the exemption (for both council's retail and commercial tenancies). Further, this approval conditioned the exemption on compliance with the activities proposed by council to address the sound contracting principles as outlined in council's letter to the then Department of Local Government, Racing and Multicultural Affairs dated 10 September 2019 (refer Attachment 2). Specifically, this requires the following condition be met "each lease/sublease to be approved by the Economic Development Committee and then full council prior to its execution (agendas, papers and minutes all publicly accessible)". **(Note: all related precinct matters are now managed by the Ipswich Central Redevelopment Committee).** This process will be utilised for each individual retail (and future commercial) lease arrangement.

This paper is seeking council's approval to enter into an agreement for lease for a food tenancy associated with the Nicholas Street Precinct redevelopment utilising the process

detailed above. The agreement for lease relates to a sub-lease for one of the four ground floor tenancies in the Eats building which fronts Nicholas Street being T3 (152 m<sup>2</sup>). Council holds the leasehold interest from Queensland Rail (Lease No. 601907098) over the Eats Building with the long-term lease expiring on 31 August 2086. The Eats Building impacts three lots: 2RP209886, 3RP212242 (over the rail line) and 1SP307972.

A lease is a contract by which one party conveys land, property, services, etc. to another for a specified term, and in this instance in return for a periodic payment. The lease agreement outlines all of the aspects of the lease arrangement so that each party understands their rights and obligations under the lease. An agreement for lease is necessary when the party owning the land is investing significant capital into refurbishing or building new space for the potential lessee. The agreement for lease pre-empts and contractually links to the final lease document whilst committing both parties to enter into a lease on occupation and/or opening of the space. Essentially an agreement for lease de-risks the landlord's capital expenditure with a contracted outcome.

The Nicholas Street Precinct team will be negotiating up to 40 retail, food and beverage, service and leisure deals over the next few years. During this process and with the desire to drive the best financial outcome for council and its constituents, the precinct team need to protect this outcome by maintaining a competitive advantage during the negotiations, which can only happen with an element of confidentiality. The lessees will also seek and in most cases secure contractual obligations on both parties to maintain a level of confidentiality around commercially sensitive material. This is likely to be around key terms like rent, term, options to extend, landlord' contributions, sales data access and general operational costs of the tenancy.

The brand names associated with each executed agreement for lease will be released prior to the tenant's opening with the precinct team's desire being to drive marketing reach across relating real estate and retail industry media channels to best serve the leasing uptake. Announcements relating to Metro B lessees are planned to be released in batches in 2022. As a result, the lessee's details and agreed commercial terms to be reflected in the lease documentation are Commercial in Confidence. A memorandum of advice detailing the Commercial in Confidence nature of the content of this report is attached (refer confidential Attachment 3). Specific details on the lessee, the commercial terms and proposed tenure length are contained in confidential Attachments 4 - 6).

Council engaged Knight Frank Valuation & Advisory Queensland to provide an independent market appraisal of each proposed lease arrangement's commercial terms as detailed in a Heads of Agreement (a precursor to an agreement for lease/Lease detailing agreed commercial terms between the parties). This advice is considered by council prior to the Chief Executive Officer endorsing any Heads of Agreement progressing to the preparation of related legal documentation including agreements for lease, leases and associated documentation. Knight Frank's review of Eats tenancy T3 is attached (refer confidential Attachment 5). Also attached is the Lease Deal Approval Report for Eats tenancy T3 (refer confidential Attachment 6). Confidential Attachment 4 details material changes with the commercial terms from the Knight Frank review to the preparation of the agreement for lease.

This paper seeks approval for council to enter into an agreement for lease for a food tenancy associated with the Nicholas Street Precinct redevelopment. The delegation to the Chief

Executive Officer will enable council’s execution of the agreement for lease, the lease and associated documentation for Eats tenancy T3 and ensure the lessee can commence their fit-out works and opening as soon as possible.

Post the execution of the lease documentation for each tenancy, council will be provided with a subsequent report detailing lessee specifics and their offering.

**LEGAL/POLICY BASIS**

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

*Local Government Act 2009*

*Local Government Regulation 2012*

**RISK MANAGEMENT IMPLICATIONS**

The medium to long-term success and viability of both the retail precinct and the overall Ipswich Central CBD Redevelopment is heavily dependent on the retail leasing program delivering a tenancy mix comprising high-quality, commercially successful tenants. The approval and subsequent execution of further agreements for lease will send a positive signal to the retail leasing market around the precinct’s future success.

**HUMAN RIGHTS IMPLICATIONS**

HUMAN RIGHTS IMPACTS	
OTHER DECISION	
(a) What is the Act/Decision being made?	<p>Recommendation A relates to Council entering into an agreement for lease and an associated document for Eats T3 tenancy.</p> <p>Recommendation B relates to Council entering into a lease for Eats T3 tenancy.</p> <p>Recommendation C outlines how Council will apply a ministerial exemption to the disposal of a leasehold interest in the Eats Building.</p> <p>Recommendation D delegates to the CEO the power to execute related lease documentation.</p> <p>Recommendation E relates to the provision of an update to council.</p>
(b) What human rights are affected?	No human rights are affected by this decision. This is because the prospective lessee is a company (only individuals have human rights).
(c) How are the human rights limited?	Not applicable.



(d) Is there a good reason for limiting the relevant rights? Is the limitation fair and reasonable?	Not applicable.
(e) Conclusion	The decision is consistent with human rights.

### FINANCIAL/RESOURCE IMPLICATIONS

The retail precinct’s short-term commercial success remains dependent on identifying, attracting and securing a commercially viable tenancy mix through executed leases and sub-leases. Funding for the retail leasing agent’s payments and any associated landlord contributions is incorporated into the project’s budget.

### COMMUNITY AND OTHER CONSULTATION

The contents of this report did not require any community consultation.

Detailed consultation has occurred with the Department of State Development, Infrastructure, Local Government and Planning on the both the conditioned process and the associated documentation to be provided to council for AFL/lease approvals.





Council’s Legal Services team have been consulted on the form and contents of this report and its attachments.

### CONCLUSION

The flexibility provided by the ministerial exemption over the Regulation’s tender and auction provisions allows council to optimise the tenancy mix, the commercial outcomes and the long-term success for each tenancy and the project overall.

As a priority, the focus is to progress the conversion of endorsed Heads of Agreement into agreement for leases particularly due to the completion of refurbishment works on both the Eats and Metro B buildings. Approval of this agreement for lease within Nicholas Street Precinct’s Eats building will continue the positive message to the Ipswich community and the market that the redevelopment is moving forward.

### ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS

1.	Ministerial Exemption Approval 24.9.19  
2.	Ministerial Exemption ICC Clarification 10.9.19  
	CONFIDENTIAL
3.	NSP Retail Leases - Legal Advice
4.	Confidential Report - Eats T3
5.	Knight Frank Assessment - Eats T3
6.	Lease Deal Approval Report - Eats T3

Greg Thomas

**PROJECT MANAGER**

I concur with the recommendations contained in this report.

Sean Madigan

**GENERAL MANAGER - INFRASTRUCTURE AND ENVIRONMENT**

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Doc ID No: A8163850

ITEM: 6.4

SUBJECT: NICHOLAS STREET PRECINCT - APPROVAL OF AN AGREEMENT FOR LEASE FOR METRO B TENANCY 2B11

AUTHOR: PROJECT MANAGER

DATE: 7 JULY 2022

### **EXECUTIVE SUMMARY**

This is a report concerning an agreement for lease for council's consideration associated with tenancy 2B11 within the Nicholas Street Precinct's Metro B Building.

### **RECOMMENDATION**

- A. That Council enter into an Agreement for Lease and an associated document of the Agreement for Lease with the proposed lessee for Tenancy 2B11 in the Metro B Building (impacting part of Lot 1 on RP157021) ("Tenancy 2B11") within the Nicholas Street Precinct (under the commercial terms detailed in the confidential report and attachments by the Project Manager dated 28 June 2022).**
- B. That conditional upon Council satisfactorily executing the Agreement to Lease with the proposed lessee, (contained in recommendation A of this report), Council enter into a lease for Tenancy 2B011 with the proposed lessee (as detailed in the confidential report and attachments by the Project Manager dated 28 June 2022).**
- C. That Council note, that in relation to Council's disposal of its leasehold interest in Tenancy 2B11 to the proposed lessee, that the Ministerial exemption under s236 (f) of the *Local Government Regulation 2012* applies to the disposal of Council's interest in Tenancy 2B11 (Ministerial exemption contained in Attachment 1 of this report).**
- D. That pursuant to Section 257(1)(b) of the *Local Government Act 2009*, Council resolve to delegate to the Chief Executive Officer the power to take "contractual action" pursuant to section 238 of the Regulation, in order to implement Council's decision at Recommendation B.**
- E. That Council be kept informed as to the progress and outcome of the execution and publication of details.**

### **RELATED PARTIES**

Ranbury Property Services - Retail Leasing Agent  
Knight Frank Valuation & Advisory Queensland – Independent Market Appraisal  
Councillor Fechner may have a potential conflict of interest in relation to this matter

Councillor Madsen may have a potential conflict of interest in relation to this matter

## **IFUTURE THEME**

Vibrant and Growing

## **PURPOSE OF REPORT/BACKGROUND**

In 2019 council was granted a ministerial exemption under section 236 (1)(f) of the *Local Government Regulation 2012* (Regulation) for the disposal of valuable non-current assets (leases and sub-leases) associated with the Nicholas Street Precinct redevelopment. To ensure council had sufficient time to fully implement its retail strategy, council sought and was granted an exemption until 30 June 2023. The goal of the exemption was to allow council to efficiently and effectively implement its retail strategy through the disposal of leases and State sub-leases (held by council) by more appropriate, market accepted, transactional means other than by a tender or auction process mandated under section 227 of the Regulation.

This exemption was sought as retail leasing is generally not undertaken through a tender or auction process. It is a specialised process undertaken by experienced retail leasing firms with relationships with the types of tenants targeted for a project. These relationships allow conversations to explain a project and the opportunities tailored to each prospective tenant. The retail leasing agent, appointed by council, has and continues to actively market the subject tenancies to prospective tenants.

Further, industry advice confirmed it would be highly likely that any tender or auction process for the retail tenancies would receive very limited responses and that any response would not contain the commercial terms sought by council. In addition, these processes would be inherently incapable of creating the desired mix and style of lessee council is seeking for its food and beverage, service and entertainment/leisure tenancies.

As part of the exemption approval process, council committed to adhere to the sound contracting principles detailed in section 104(3) of the *Local Government Act 2009*, specifically through a number of proposed safeguards to ensure openness and transparency with regard to the related transactions. Correspondence from the then Minister of Local Government dated 24 September 2019 (refer Attachment 1) confirmed approval of the exemption (for both council's retail and commercial tenancies). Further, this approval conditioned the exemption on compliance with the activities proposed by council to address the sound contracting principles as outlined in council's letter to the then Department of Local Government, Racing and Multicultural Affairs dated 10 September 2019 (refer Attachment 2). Specifically, this requires the following condition be met "each lease/sublease to be approved by the Economic Development Committee and then full council prior to its execution (agendas, papers and minutes all publicly accessible)". **(Note: all related precinct matters are now managed by the Ipswich Central Redevelopment Committee).** This process will be utilised for each individual retail (and future commercial) lease arrangement.

This paper is seeking council's approval to enter into an agreement for lease for a service tenancy associated with the Nicholas Street Precinct redevelopment utilising the process

detailed above. The agreement for lease relates to a sub-lease for one of internal tenancies in the Metro B building being 2B11 tenancy (68 m<sup>2</sup>). Council holds the leasehold interest from Queensland Rail (Lease No. 601375840) over the Metro B Building with the long-term lease expiring on 27 November 2077. The Metro B Building impacts part of lot 1RP157021 (over the rail line).

A lease is a contract by which one party conveys land, property, services, etc. to another for a specified term, and in this instance in return for a periodic payment. The lease agreement outlines all of the aspects of the lease arrangement so that each party understands their rights and obligations under the lease. An agreement for lease is necessary when the party owning the land is investing significant capital into refurbishing or building new space for the potential lessee. The agreement for lease pre-empts and contractually links to the final lease document whilst committing both parties to enter into a lease on occupation and/or opening of the space. Essentially an agreement for lease de-risks the landlord's capital expenditure with a contracted outcome.

The Nicholas Street Precinct team will be negotiating up to 40 retail, food and beverage and leisure deals over the next few years. During this process and with the desire to drive the best financial outcome for council and its constituents, the precinct team need to protect this outcome by maintaining a competitive advantage during the negotiations, which can only happen with an element of confidentiality. The lessees will also seek and in most cases secure contractual obligations on both parties to maintain a level of confidentiality around commercially sensitive material. This is likely to be around key terms like rent, term, options to extend, landlord' contributions, sales data access and general operational costs of the tenancy.

The brand names associated with each executed agreement for lease will be released prior to the tenant's opening with the precinct team's desire being to drive marketing reach across relating real estate and retail industry media channels to best serve the leasing uptake. Announcements relating to Metro B lessees are planned to be released in batches in 2022. As a result, the lessee's details and agreed commercial terms to be reflected in the lease documentation are Commercial in Confidence. A memorandum of advice detailing the Commercial in Confidence nature of the content of this report is attached (refer confidential Attachment 3). Specific details on the lessee, the commercial terms and proposed tenure length are contained in confidential Attachments 4 - 6).

Council engaged Knight Frank Valuation & Advisory Queensland to provide an independent market appraisal of each proposed lease arrangement's commercial terms as detailed in a Heads of Agreement (a precursor to an agreement for lease/Lease detailing agreed commercial terms between the parties). This advice is considered by council prior to the Chief Executive Officer endorsing any Heads of Agreement progressing to the preparation of related legal documentation including agreements for lease, leases and associated documentation. Knight Frank's review of Metro B tenancy 2B10 is attached (refer confidential Attachment 5). Also attached is the Lease Deal Approval Report for Metro B tenancy 2B11 (refer confidential Attachment 6). Confidential Attachment 4 details material changes with the commercial terms from the Knight Frank review of the initial proposal in Metro B tenancy 2B10 to the preparation of the agreement for lease in the adjoining Metro B tenancy 2B11.

This paper seeks approval for council to enter into an agreement for lease for a service tenancy associated with the Nicholas Street Precinct redevelopment. The delegation to the Chief Executive Officer will enable council's execution of the agreement for lease, the lease and associated documentation for Metro B tenancy 2B11 and ensure the lessee can commence their fit-out works and opening as soon as possible.

Post the execution of the lease documentation for each tenancy, council will be provided with a subsequent report detailing lessee specifics and their offering.

### LEGAL/POLICY BASIS

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

*Local Government Act 2009*

*Local Government Regulation 2012*

### RISK MANAGEMENT IMPLICATIONS

The medium to long-term success and viability of both the retail precinct and the overall Ipswich Central CBD Redevelopment is heavily dependent on the retail leasing program delivering a tenancy mix comprising high-quality, commercially successful tenants. The approval and subsequent execution of further agreements for lease will send a positive signal to the retail leasing market around the precinct's future success.

### HUMAN RIGHTS IMPLICATIONS

HUMAN RIGHTS IMPACTS	
OTHER DECISION	
(a) What is the Act/Decision being made?	<p>Recommendation A relates to Council entering into an agreement for lease and an associated document for Metro B 2B11 tenancy.</p> <p>Recommendation B relates to Council entering into a lease for Metro B 2B11 tenancy.</p> <p>Recommendation C outlines how Council will apply a ministerial exemption to the disposal of a leasehold interest in the Metro B Building.</p> <p>Recommendation D delegates to the CEO the power to execute related lease documentation.</p> <p>Recommendation E relates to the provision of an update to council.</p>
(b) What human rights are affected?	No human rights are affected by this decision. This is because the prospective lessee is a company (only individuals have human rights).



(c) How are the human rights limited?	Not applicable.
(d) Is there a good reason for limiting the relevant rights? Is the limitation fair and reasonable?	Not applicable.
(e) Conclusion	The decision is consistent with human rights.

### FINANCIAL/RESOURCE IMPLICATIONS

The retail precinct's short-term commercial success remains dependent on identifying, attracting and securing a commercially viable tenancy mix through executed leases and sub-leases. Funding for the retail leasing agent's payments and any associated landlord contributions is incorporated into the project's budget.

### COMMUNITY AND OTHER CONSULTATION

The contents of this report did not require any community consultation.

Detailed consultation has occurred with the Department of State Development, Infrastructure, Local Government and Planning on the both the conditioned process and the associated documentation to be provided to council for AFL/lease approvals.





Council's Legal Services team have been consulted on the form and contents of this report and its attachments.

### CONCLUSION

The flexibility provided by the ministerial exemption over the Regulation's tender and auction provisions allows council to optimise the tenancy mix, the commercial outcomes and the long-term success for each tenancy and the project overall.

As a priority, the focus is to progress the conversion of endorsed Heads of Agreement into agreement for leases particularly due to the completion of refurbishment works on both the Eats and Metro B buildings. Approval of this agreement for lease within Nicholas Street Precinct's Metro B will continue the positive message to the Ipswich community and the market that the redevelopment is moving forward.

### ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS

1.	Ministerial Exemption Approval 24.9.19  
2.	Ministerial Exemption ICC Clarifications 10.9.19  
	CONFIDENTIAL
3.	NSP Retail Leases - Legal Advice
4.	Confidential Report - Metro B 2B11
5.	Knight Frank Assessment - Metro B 2B10
6.	Lease Deal Approval Report - Metro B 2B11

Greg Thomas  
**PROJECT MANAGER**

I concur with the recommendations contained in this report.

Sean Madigan  
**GENERAL MANAGER - INFRASTRUCTURE AND ENVIRONMENT**

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Doc ID No: A8163851

ITEM: 6.5

SUBJECT: NICHOLAS STREET PRECINCT - APPROVAL OF AN AGREEMENT FOR LEASE FOR METRO B TENANCY 2B14

AUTHOR: PROJECT MANAGER

DATE: 7 JULY 2022

### EXECUTIVE SUMMARY

This is a report concerning an agreement for lease for council's consideration associated with tenancy 2B14 within the Nicholas Street Precinct's Metro B Building.

### RECOMMENDATION

- A. That Council enter into an Agreement for Lease and an associated document of the Agreement for Lease with the proposed lessee for Tenancy 2B14 in the Metro B Building (impacting part of Lot 1 on RP157021) ("Tenancy 2B14") within the Nicholas Street Precinct (under the commercial terms detailed in the confidential report and attachments by the Project Manager dated 28 June 2022).**
- B. That conditional upon Council satisfactorily executing the Agreement to Lease with the proposed lessee, (contained in recommendation A of this report), Council enter into a lease for Tenancy 2B14 with the proposed lessee (as detailed in the confidential report and attachments by the Project Manager dated 28 June 2022).**
- C. That Council note, that in relation to Council's disposal of its leasehold interest in Tenancy 2B14 to the proposed lessee, that the Ministerial exemption under s236 (f) of the *Local Government Regulation 2012* applies to the disposal of Council's interest in Tenancy 2B14 (Ministerial exemption contained in Attachment 1 of this report).**
- D. That pursuant to Section 257(1)(b) of the *Local Government Act 2009*, Council resolve to delegate to the Chief Executive Officer the power to take "contractual action" pursuant to section 238 of the Regulation, in order to implement Council's decision at Recommendation B.**
- E. That Council be kept informed as to the progress and outcome of the execution and publication of details.**

### RELATED PARTIES

Ranbury Property Services - Retail Leasing Agent  
Knight Frank Valuation & Advisory Queensland – Independent Market Appraisal  
Councillor Fechner may have a potential conflict of interest in relation to this matter

Councillor Madsen may have a potential conflict of interest in relation to this matter

## **IFUTURE THEME**

Vibrant and Growing

## **PURPOSE OF REPORT/BACKGROUND**

In 2019 council was granted a ministerial exemption under section 236 (1)(f) of the *Local Government Regulation 2012* (Regulation) for the disposal of valuable non-current assets (leases and sub-leases) associated with the Nicholas Street Precinct redevelopment. To ensure council had sufficient time to fully implement its retail strategy, council sought and was granted an exemption until 30 June 2023. The goal of the exemption was to allow council to efficiently and effectively implement its retail strategy through the disposal of leases and State sub-leases (held by council) by more appropriate, market accepted, transactional means other than by a tender or auction process mandated under section 227 of the Regulation.

This exemption was sought as retail leasing is generally not undertaken through a tender or auction process. It is a specialised process undertaken by experienced retail leasing firms with relationships with the types of tenants targeted for a project. These relationships allow conversations to explain a project and the opportunities tailored to each prospective tenant. The retail leasing agent, appointed by council, has and continues to actively market the subject tenancies to prospective tenants.

Further, industry advice confirmed it would be highly likely that any tender or auction process for the retail tenancies would receive very limited responses and that any response would not contain the commercial terms sought by council. In addition, these processes would be inherently incapable of creating the desired mix and style of lessee council is seeking for its food and beverage, service and entertainment/leisure tenancies.

As part of the exemption approval process, council committed to adhere to the sound contracting principles detailed in section 104(3) of the *Local Government Act 2009*, specifically through a number of proposed safeguards to ensure openness and transparency with regard to the related transactions. Correspondence from the then Minister of Local Government dated 24 September 2019 (refer Attachment 1) confirmed approval of the exemption (for both council's retail and commercial tenancies). Further, this approval conditioned the exemption on compliance with the activities proposed by council to address the sound contracting principles as outlined in council's letter to the then Department of Local Government, Racing and Multicultural Affairs dated 10 September 2019 (refer Attachment 2). Specifically, this requires the following condition be met "each lease/sublease to be approved by the Economic Development Committee and then full council prior to its execution (agendas, papers and minutes all publicly accessible)". **(Note: all related precinct matters are now managed by the Ipswich Central Redevelopment Committee).** This process will be utilised for each individual retail (and future commercial) lease arrangement.

This paper is seeking council's approval to enter into an agreement for lease for a service tenancy associated with the Nicholas Street Precinct redevelopment utilising the process

detailed above. The agreement for lease relates to a sub-lease for one of internal tenancies in the Metro B building being 2B14 tenancy (132 m<sup>2</sup>). Council holds the leasehold interest from Queensland Rail (Lease No. 601375840) over the Metro B Building with the long-term lease expiring on 27 November 2077. The Metro B Building impacts part of lot 1RP157021 (over the rail line).

A lease is a contract by which one party conveys land, property, services, etc. to another for a specified term, and in this instance in return for a periodic payment. The lease agreement outlines all of the aspects of the lease arrangement so that each party understands their rights and obligations under the lease. An agreement for lease is necessary when the party owning the land is investing significant capital into refurbishing or building new space for the potential lessee. The agreement for lease pre-empts and contractually links to the final lease document whilst committing both parties to enter into a lease on occupation and/or opening of the space. Essentially an agreement for lease de-risks the landlord's capital expenditure with a contracted outcome.

The Nicholas Street Precinct team will be negotiating up to 40 retail, food and beverage and leisure deals over the next few years. During this process and with the desire to drive the best financial outcome for council and its constituents, the precinct team need to protect this outcome by maintaining a competitive advantage during the negotiations, which can only happen with an element of confidentiality. The lessees will also seek and in most cases secure contractual obligations on both parties to maintain a level of confidentiality around commercially sensitive material. This is likely to be around key terms like rent, term, options to extend, landlord' contributions, sales data access and general operational costs of the tenancy.

The brand names associated with each executed agreement for lease will be released prior to the tenant's opening with the precinct team's desire being to drive marketing reach across relating real estate and retail industry media channels to best serve the leasing uptake. Announcements relating to Metro B lessees are planned to be released in batches in 2022. As a result, the lessee's details and agreed commercial terms to be reflected in the lease documentation are Commercial in Confidence. A memorandum of advice detailing the Commercial in Confidence nature of the content of this report is attached (refer confidential Attachment 3). Specific details on the lessee, the commercial terms and proposed tenure length are contained in confidential Attachments 4 - 6).

Council engaged Knight Frank Valuation & Advisory Queensland to provide an independent market appraisal of each proposed lease arrangement's commercial terms as detailed in a Heads of Agreement (a precursor to an agreement for lease/Lease detailing agreed commercial terms between the parties). This advice is considered by council prior to the Chief Executive Officer endorsing any Heads of Agreement progressing to the preparation of related legal documentation including agreements for lease, leases and associated documentation. Knight Frank's review of Metro B tenancy 2B14 is attached (refer confidential Attachment 5). Also attached is the Lease Deal Approval Report for Metro B tenancy 2B14 (refer confidential Attachment 6). Confidential Attachment 4 details material changes with the commercial terms from the Knight Frank review to the preparation of the agreement for lease.

This paper seeks approval for council to enter into an agreement for lease for a service tenancy associated with the Nicholas Street Precinct redevelopment. The delegation to the

Chief Executive Officer will enable council’s execution of the agreement for lease, the lease and associated documentation for Metro B tenancy 2B14 and ensure the lessee can commence their fit-out works and opening as soon as possible.

Post the execution of the lease documentation for each tenancy, council will be provided with a subsequent report detailing lessee specifics and their offering.

**LEGAL/POLICY BASIS**

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

**RISK MANAGEMENT IMPLICATIONS**

The medium to long-term success and viability of both the retail precinct and the overall Ipswich Central CBD Redevelopment is heavily dependent on the retail leasing program delivering a tenancy mix comprising high-quality, commercially successful tenants. The approval and subsequent execution of further agreements for lease will send a positive signal to the retail leasing market around the precinct’s future success.

**HUMAN RIGHTS IMPLICATIONS**

HUMAN RIGHTS IMPACTS	
OTHER DECISION	
(a) What is the Act/Decision being made?	<p>Recommendation A relates to Council entering into an agreement for lease and an associated document for Metro B 2B14 tenancy.</p> <p>Recommendation B relates to Council entering into a lease for Metro B 2B14 tenancy.</p> <p>Recommendation C outlines how Council will apply a ministerial exemption to the disposal of a leasehold interest in the Metro B Building.</p> <p>Recommendation D delegates to the CEO the power to execute related lease documentation.</p> <p>Recommendation E relates to the provision of an update to council.</p>
(b) What human rights are affected?	No human rights are affected by this decision. This is because the prospective lessee is a company (only individuals have human rights).
(c) How are the human rights limited?	Not applicable.



(d) Is there a good reason for limiting the relevant rights? Is the limitation fair and reasonable?	Not applicable.
(e) Conclusion	The decision is consistent with human rights.

### FINANCIAL/RESOURCE IMPLICATIONS

The retail precinct's short-term commercial success remains dependent on identifying, attracting and securing a commercially viable tenancy mix through executed leases and sub-leases. Funding for the retail leasing agent's payments and any associated landlord contributions is incorporated into the project's budget.

### COMMUNITY AND OTHER CONSULTATION

The contents of this report did not require any community consultation.

Detailed consultation has occurred with the Department of State Development, Infrastructure, Local Government and Planning on the both the conditioned process and the associated documentation to be provided to council for AFL/lease approvals.





Council's Legal Services team have been consulted on the form and contents of this report and its attachments.

### CONCLUSION

The flexibility provided by the ministerial exemption over the Regulation's tender and auction provisions allows council to optimise the tenancy mix, the commercial outcomes and the long-term success for each tenancy and the project overall.

As a priority, the focus is to progress the conversion of endorsed Heads of Agreement into agreement for leases particularly due to the completion of refurbishment works on both the Eats and Metro B buildings. Approval of this agreement for lease within Nicholas Street Precinct's Metro B will continue the positive message to the Ipswich community and the market that the redevelopment is moving forward.

### ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS

1.	Ministerial Exemption Approval 24.9.19  
2.	Ministerial Exemption ICC Clarifications 10.9.19  
	CONFIDENTIAL
3.	NSP Retail Leases - Legal Advice
4.	Confidential Report - Metro 2B14
5.	Knight Frank Assessment - Metro B 2B14
6.	Lease Deal Approval Report - Metro B 2B14

Greg Thomas

**PROJECT MANAGER**

I concur with the recommendations contained in this report.

Sean Madigan

**GENERAL MANAGER - INFRASTRUCTURE AND ENVIRONMENT**

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