

Write Off of Irrecoverable Debt - Former Tenant at 295 Pitt Street, Sydney

File No: X103789

Summary

The City of Sydney acquired Park House located at 295-301 Pitt Street in May 1985. The building is part of the plan to deliver Town Hall Square, a major civic space opposite Sydney Town Hall. Discount Compound Pharmacy Pty Ltd (ACN 610 985 307) (Discount Pharmacy), a pharmaceutical retail company, leased the premises at Park House in 2021 occupying Level 1, ground floor and the basement of the building.

In 2023, Discount Pharmacy commenced proceedings against the City of Sydney in the NSW Civil and Administrative Tribunal (NCAT), and the City of Sydney issued a counterclaim against Discount Pharmacy for rental arrears. In or around late September 2023, the City of Sydney terminated the lease on the grounds of unpaid rent, but Discount Pharmacy obtained a court order which allowed it to remain in the premises while the litigation was ongoing. The matter was subsequently transferred to the Supreme Court due to the amount claimed by the City of Sydney in unpaid rent.

In August 2025, Discount Pharmacy entered into voluntary administration and receivership. Discount Pharmacy ceased trading in September 2025, and vacated the premises. Discount Pharmacy remains in receivership and the City of Sydney is informed by the liquidator that once this is finalised it is likely that Discount Pharmacy will be placed into liquidation pursuant to the resolution of the creditors at the second creditors meeting. Pursuant to s471B of the Corporations Act 2002 (Cth), the City of Sydney is unable to pursue recovery of the debt while Discount Pharmacy is in external administration. This has the result that the City's counterclaim in the court proceedings is stayed and cannot proceed at this time. Once the liquidation process is finalised, it is anticipated that there will be no proceeds available to the City of Sydney as an unsecured creditor, and it is recommended that Council write off the debt owed to the City of Sydney pursuant to s 213 of the Local Government (General) Regulation 2021 (NSW).

Recommendation

It is resolved that:

- (A) Council write off the debt of \$1,816,407.05 (inclusive of GST) owed by former tenant Discount Compound Pharmacy Pty Ltd (ACN 610 985 307) of part of Park House 295-301 Pitt Street, Sydney on the basis that the debt is not lawfully recoverable;
- (B) authority be delegated to the Chief Executive Officer to reclaim the GST component of the debt, from the Australian Taxation Office for the amount \$165,127.91;
- (C) Council note that this amount has previously been provided for in full in prior accounting periods. No further adverse impact on the Council's financial position is expected; and
- (D) Council note that the fact that a debt is written off does not prevent the City from taking legal proceedings to recover the debt if the circumstances change at a later date.

Attachments

Nil.

Background

1. The City of Sydney acquired Park House located at 295–301 Pitt Street in May 1985. The property forms part of the City of Sydney's broader plan to deliver Town Hall Square — a major civic space opposite Sydney Town Hall. The site is earmarked for demolition in early 2028 to support the development of Town Hall Square.
2. In August 2021, the City of Sydney entered into a 5-year commercial lease with Discount Pharmacy for the basement, ground floor and Level 1 of 295 Pitt Street, Sydney. The property is an ageing asset with end-of-life mechanical and building systems, the condition of which was made known to the tenant at the time the lease was entered into.
3. In December 2022, Discount Pharmacy lodged an application for mediation with the NSW Small Business Commissioner, alleging that the City of Sydney had failed to replace the air conditioning plant and address water ingress issues in the basement. The City of Sydney participated in the mediation process in good faith, seeking a practical resolution; however, mediation was unsuccessful.
4. The City of Sydney consistently maintained that while the building's air conditioning plant was nearing end-of-life, it remained operational and serviceable for standard commercial use.
5. On 2 May 2023, Discount Pharmacy commenced proceedings in the NSW Civil and Administrative Tribunal (NCAT). The City of Sydney filed a defence and counterclaim, and continued to meet its obligations under the lease while pursuing recovery of arrears.
6. In 2023, the matter was transferred to the Supreme Court due to the amount claimed by the City of Sydney in unpaid rent from Discount Pharmacy.
7. While the City of Sydney sought to exercise its rights under the lease, and terminated the lease in September 2023, a stay order issued by NCAT entitled the tenant to remain in the premises during the litigation process.
8. In August 2025, Discount Pharmacy entered voluntary administration, and a secured creditor appointed a receiver. A joint administration process commenced, with the first creditors' meeting held on 2 September 2025 and the second on 25 September 2025, where creditors resolved to place the company into liquidation. Two liquidators from DVT McLeods were appointed and issued a report in December 2025 (Liquidators' Report).
9. The City of Sydney is an unsecured creditor. The findings in the Liquidators' Report were that there are insufficient funds to pay a distribution to any class of creditors. As such, on the information currently available it is unlikely that the City of Sydney will be able to recover any rental arrears owed to it following completion of the liquidation process.
10. Discount Pharmacy's proceedings against the City of Sydney have been dismissed, and the City of Sydney's counterclaim in the Supreme Court has been stayed pursuant to s 471B of the Corporations Act 2021 (Cth) by reason of Discount Pharmacy being under external administration. The effect of this is that the City of Sydney's counterclaim cannot proceed at this time and it cannot take any steps to recover the debt owed.

11. If Discount Pharmacy ceases to be in external administration and control of it returns to the director, which in light of the Liquidators' Report is improbable, the City of Sydney will retain the ability at that point to pursue the debt through court proceedings.

Key Implications

Strategic Alignment - Sustainable Sydney 2030-2050 Continuing the Vision

12. Sustainable Sydney 2030-2050 Continuing the Vision renews the communities' vision for the sustainable development of the city to 2050. It includes 10 strategic directions to guide the future of the city, as well as 10 targets against which to measure progress. This report is aligned with the following strategic directions and objectives:
 - (a) Direction 1 - Responsible governance and stewardship - Reduce receivables to a realistic and manageable level, enabling more accurate financial forecasting and budgeting to support long-term planning and service delivery. Also, ensure that businesses operating in the Local Government Area comply with all relevant regulations, thereby contributing positively to local economy and community.

Organisational Impact

13. The organisational impact of this debt write-off is minimal, as sufficient financial provisions were established in prior years to account for the potential non-recovery. This approach ensured the City's financial position remained protected while appropriate recovery and support efforts were undertaken.

Risks

14. A cautious risk appetite has been maintained. The City of Sydney has exercised the rights available to it to seek to recover this debt through litigation, which are not available at this point due to the company being in external administration.

Financial Implications

15. The \$1,816,407.05 debt relating to the lease period has been fully provided for. The associated expense was recognised in prior accounting periods, with a corresponding provision currently held on the City of Sydney's balance sheet. The proposed write-off represents an accounting adjustment only and will not result in any further impact to the Income Statement.

Relevant Legislation

16. Local Government (General) Regulation 2021 - Section 213 provides that a debt can be written off by Council if the debt is not lawfully recoverable, or as a result of a decision of a court, or if the Council or the Chief Executive Officer believes on reasonable grounds that an attempt to recover the debt would not be cost effective. The fact that a debt is written off under this section does not prevent the council concerned from taking legal proceedings to recover the debt.

KIM WOODBURY

Chief Operating Officer

Neil Palagedara, Executive Manager Property Services