

Item 3.

Lease Variation - Town Hall Arcade

File No: S098620

Summary

The Council of the City of Sydney and St Andrew's House Corporation (formerly Glebe Administration Board), as trustee and manager of the St Andrew's Trust, each own land upon which Town Hall Arcade and Sydney Square are built.

The City owns the northern side of the Town Hall Arcade to approximately one metre out from the facade of the shops on the northern side of the main arcade. The remainder is owned by the St Andrew's House Corporation.

On 2 February 2000, both parties entered into a new 20-year lease, with an option for a further term of 10 years, with St Andrew's House Corporation the Lessee and the City of Sydney the Lessor. The Lessee has recently exercised the option in accordance with the Lease.

The Lease provides that prior to the expiry of the initial term on 1 February 2020, the Lessee may at its discretion submit a proposal to upgrade the main portion of the Town Hall Arcade for review and response by the City.

The Lease provides that both parties may agree in writing to extend the timeframes in which the Lessee may at its discretion submit a proposal and, if a proposal is submitted, the timing in which the City is to review and respond to a proposal.

Whilst the Lease permitted mutually agreed amendments in writing, the previous Council resolutions for the current lease did not delegate the authority to the Chief Executive Officer to negotiate these amendments and execute any necessary documentation to give effect to any mutually agreed amendments.

This report recommends Council endorsement to a variation of the current lease to extend the timeframe in which the Lessee may at its discretion submit a proposal to upgrade the main arcade, and the delegation of Council's authority to the Chief Executive Officer to negotiate, execute and administer further variations of the current lease as may be required.

The proposed resolution will allow better co-ordination by the Lessee in respect of proposals to upgrade with the outcomes of the Sydney Town Hall Public Precinct Plan.

Recommendation

It is resolved that:

- (A) Council endorse the variation to the Lease as detailed within this report and delegate authority to the Chief Executive Officer to enter into and administer any documentation required to give effect to this variation;
- (B) Council delegate authority to the Chief Executive Officer to negotiate, execute and administer any further variations to the current lease including but not limited to facilitating the submission or evaluation of any proposal for the upgrade of the Town Hall Main Arcade that may be submitted by the Lessee;
- (C) Council will be updated on progress through CEO Updates and/or Council reports; and
- (D) Council note that the City will engage regularly with the St Andrew's House Corporation in respect of directions for Town Hall Arcade.

Attachments

Attachment A. Identification Plan - Land Ownership

Attachment B. Identification Plan - Main Arcade and Concourse

Background

1. The City and St Andrew's House Corporation (formerly Glebe Administration Board) individually own land upon which Town Hall Arcade and Sydney Square are built. Both the City's and St Andrew's House Corporation's land ownership (refer to Attachment A) is unlimited in height and depth.
2. St Andrew's House Corporation is the trustee and the manager of the St Andrew's Trust pursuant to section 14 of the Anglican Church of Australia Trust Property Act 1917 (NSW).
3. The main asset of the Trust is the St Andrew's House building and precinct, including a part of the Town Hall Arcade, car park, office tower and square.
4. On 1 September 1977, the City leased part of their land to the Glebe Administration Board for a 21 year term, expiring 31 August 1998.
5. In 1996, the then Lessee approached the City to seek Council's view on refurbishing and extending the arcade to provide a food court either at the existing retail level or at the Sydney Square level.
6. Refurbishment of the arcade took place in 1999, and both parties subsequently entered into a new lease of 20 years from 1 February 2000 with an option for a further term of 10 years.
7. At the Town Hall Arcade level, the City owns the northern side of the arcade to approximately one metre out from the facade of the shops on the northern side. The remainder is owned by the St Andrew's House Corporation, which also owns St Andrew's House (refer to Attachment B).
8. The permitted use is that of a retail arcade, but not necessarily limited to commercial and retail uses including, at the tenant's election, the provision of common areas and customer and service access.
9. Under the provisions of the existing lease, the Lessee will operate, manage and maintain Town Hall Arcade in a proper and efficient manner, which is commensurate with the standard of management and maintenance of comparable shopping arcades in the Central Business District of Sydney.
10. The control of the arcade is currently the responsibility of St Andrew's House Corporation, and the City only has statutory rights as a lessor under the lease agreement.

Lease Option

11. Prior to the expiry of the current lease, the Lessee has a right to exercise an option for a further term of 10 years. The City also has the right to require the Tenant to take up the option for a further term of 10 years.
12. On 24 September 2018, the St Andrew's House Corporation gave notice to exercise its option for a further term of 10 years, commencing 2 February 2020. The notice was served correctly and at the time of receiving the notice there were no existing unremedied breaches of any terms of the lease.

Upgrade Proposal - Town Hall Main Arcade

13. Within three months of the next day following the date upon which the option was exercised, the Lessee may at its absolute discretion submit a proposal for the upgrading of the Town Hall Main Arcade (refer to Attachment B).
14. The Lessee's proposal is to include plans and specifications in reasonable detail, estimates of costs and estimates of possible returns to the City and Lessee.
15. The lease contemplated that both parties may need to extend the timeframes in writing to extend the timing in which the Lessee may submit a proposal, and if a proposal is submitted, the timing in which the Council must review and respond to a proposal.
16. Whilst the Lease permitted mutually agreed amendments in writing, the previous Council resolutions for the current lease did not delegate authority to the Chief Executive Officer to agree to these amendments and execute any documentation.
17. The variation proposed herein and the recommended delegation to the Chief Executive Office, is to amend the current lease as may be necessary to facilitate the submission and review of any proposal for the Town Hall Main Arcade.

Lease Variation

18. The St Andrew's Board Corporation has requested a five-month extension retrospectively from 25 December 2018 to consider and at its absolute discretion submit a proposal to upgrade the main arcade.
19. If the Lessee has not submitted a proposal in the form and with the supporting documentation required under the lease by 27 May 2019 then it will be deemed not to have submitted a proposal.

Key Implications**Organisational Impact**

20. The variation of the lease will not have any detrimental effects on the service levels, staffing, facilities, processes or other internal impacts with Town Hall Main Arcade.

Environmental

21. If a proposal to upgrade Town Hall Main Arcade is submitted it will need to identify how it impacts on environmental outcomes, such as targets in the City's Environmental Management Plan.

Economic

22. If a proposal to upgrade Town Hall Main Arcade is submitted it will need to identify impacts on surrounding businesses.

Budget Implications

23. There are no financial implications to the 2018/19 operating budget.

Relevant Legislation

24. Local Government Act 1993.

Public Consultation

25. Public consultation is not required to effect the variation or the proposed resolution.

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