



14.2 **PROPOSED LEASE TO RESOLUTION INDEPENDENT -
COMPLETION OF STATUTORY PROCEDURES**

EXECUTIVE MEMBER: **CHRIS CARROLL, GENERAL MANAGER CUSTOMER AND
CORPORATE SERVICES**

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1. PURPOSE

- 1.1 This report seeks Council's approval to complete the statutory procedures under the Local Government Act 1989 (Vic) (**Act**) and finalise the proposed lease to Resolution Independent P/L for Level 1, 202 Bank Street, South Melbourne.

2. EXECUTIVE SUMMARY

- 2.1 200-202 Bank Street, South Melbourne is a 2-storey freehold property owned by Council.
- 2.2 The tenant currently occupies Level 1, being 202 Bank Street South Melbourne and has been in occupation since 2011 but under a different company name. The proposal to lease is for an aggregate two year and eight-month term commencing 22 March 2018, with revised conditions to the previous lease which expired in November 2017.
- 2.3 The property is currently leased on a commercial basis and this is proposed to continue under the new Lease. The proposed market rent has been assessed by Council's contract valuers.
- 2.4. Council resolved to commence statutory procedures under the Local Government Act 1989 at its meeting on 13 December 2017. A "notice of intention to lease" was published on 29 January 2018 inviting submissions from interested persons. Council has not received any submissions to the proposal and it is recommended that procedures be concluded and the proposed lease offered to Resolution Independent P/L.



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3. RECOMMENDATION

That Council:

- 3.1 Not having received any submissions in response to the Notice of Intention to Lease Level 1, 202 Bank Street, South Melbourne to Resolution Independent P/L, resolves to conclude the statutory procedures under sections 190 and 223 of the Local Government Act 1989.
- 3.2 Authorises the Chief Executive Officer or delegate to execute a new lease agreement on the terms outlined below:
- Tenant: Resolution Independent P/L
 - Premises: Level 1, 202 Bank Street, South Melbourne
 - Commencement: 22 March 2018
 - Permitted Use: Offices and administration
 - Term: One (1) Year and eight months
 - Further Term: One (1) Year
 - Commencement Rental: \$48,500 per annum + GST per annum with 3% increases November 2018 and November 2019
- 3.3 Notes that the proposed rent of \$48,500 + GST per annum represents a commercial market rental.

4. KEY POINTS/ISSUES

Background

- 4.1 200-202 Bank Street, South Melbourne is a freehold property owned by Council with separate tenancies on the ground and upper floors.
- 4.2 It is proposed to lease the property to Resolution Independent P/L that currently occupies the property.
- 4.3 As the proposed lease is for a term of more than one year and the market rent inclusive of GST is more than \$50,000 per annum inclusive of GST, the lease is subject to the statutory procedures under Sections 190 and 223 of the Act.
- 4.4 Councillors resolved to commence statutory procedures at meeting of Council 13 December 2017.
- 4.5 A “notice of intention to lease” was published in the Port Phillip Leader on 29 January 2017 in accordance with section 190 of the LGA 1989 and inviting public submissions in accordance with section 223 of the LGA 1989.



Key Information

- 4.6 Council has complied with the provisions of sections 190 and 223 of the Act for the lease which is proposed. The Act specifies procedures for consulting with the public prior to making a final decision.
- 4.7 No submission was received in response to the public notice inviting submissions on the proposed new Lease
- 4.8 A market rental valuation has been undertaken by MSV on 19 October 2017 as best practice. The proposed rental is in accordance with the market rental valuation.
- 4.9 Following the completion of statutory process under Local Government Act it is proposed to enter into a lease in accordance with the terms detailed in the recommendation section of this report.

5. CONSULTATION AND STAKEHOLDERS

- 5.1 On 13 December 2017 Council resolved to commence the statutory procedures under section 190 of the Act for the proposed lease by publishing a notice in the local newspaper inviting interested persons to make a submission under section 223 of the Act.
- 5.2 No submission was received in response to the public notice inviting submissions on the proposed new lease.

6. LEGAL AND RISK IMPLICATIONS

- 6.1 The proposed tenant holds the required public liability insurance equal to that specific value in the lease terms and conditions.
- 6.2 Documenting the respective property responsibilities and obligations through a legally binding Lease ensures compliance with legislative requirements and mitigates risk.
- 6.3 The lease is subject to Retail Leases Act 2003 and under Section 21, the tenant will waive its right to a minimum 5 year aggregate term.

7. FINANCIAL IMPACT

- 7.1 Allowing the current business to operate at the site helps avoid a period of the property being vacant not generating income.
- 7.2 The market rental of \$48,500 plus GST per annum is based on the location, condition and type of the property and the permitted use.
- 7.3 Rental will escalate by 3% in November 2018 to \$49,955 and to \$51,453.65 in November 2019.
- 7.4 There is no capital outlay required for the implementation of the lease.
- 7.5 The incumbent tenant will be responsible for the outgoings and operational costs (subject to the limitations of Retail Leases Act 2003).



8. ENVIRONMENTAL IMPACT

- 8.1 The proposed lease to Resolution Independent will have requirements for sustainable obligations adopting sustainable initiatives and reporting the results.
- 8.2 Examples of the sustainability conditions to be included within the lease are:
 - 8.2.1 reducing energy consumption
 - 8.2.2 reducing water usage
 - 8.2.3 reducing landfill waste – reducing waste with a particular focus on Single Use Plastics such as plastic bags, bottles, take away coffee cups, disposable plastic containers and no helium filled balloons
 - 8.2.4 encouraging visitors and staff to utilise low emission transport options
 - 8.2.5 implementing sustainable purchasing policies to help reduce contamination/pollution and enhance indoor environment quality.

9. COMMUNITY IMPACT

- 9.1 The property is not used for a Council operation and is not considered suitable for staff operational use due to accessibility and size limitations.
- 9.2 The lower retail section of the building is leased to a long-standing community organisation, South Melbourne Community Chest.

10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 10.1 The granting of a new lease for Level 1, 202 Bank Street, South Melbourne aligns with the Council Plan 2017-2027 through supporting:
 - Direction 6 – “Our commitment to you” – sustainable financial and asset management

11. IMPLEMENTATION STRATEGY

11.1 TIMELINE

An indicative timeline is shown below should the recommendation be adopted.

Date	Event
21 March 2018	Council resolves to finalise the statutory procedures
22 March 2018	Lease execution

11.2

COMMUNICATION

- 11.2.1 Providing a lease to the incumbent tenant mitigates risk of any void period and loss of income for Council.
- 11.2.2 Rental is a commercial level with no subsidy.



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11.2.3 Resolution Independent P/L is accountable for operating costs associated with occupying the property

11.2.4 Resolution Independent P/L will be advised of Council's decision following the meeting

12. OFFICER DIRECT OR INDIRECT INTEREST

12.2 No officers involved in the preparation of this report have any direct or indirect interest in the matter.

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ATTACHMENTS Nil